

BY: VIEWPOINT & HAND DELIVERY

September 20, 2026

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

**RE: Variance Application of Nathan Alger
104 Thornton Street, Tax Map 160, Lot 11**

Dear Stefanie,

Please find a copy of the following materials relative to the above referenced variance application filed through Viewpoint for the property at 104 Thornton Street.

- 1) Landowner Letter of Authorization
- 2) Narrative to Variance Application with Exhibits
- 3) 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.

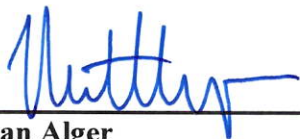
Sincerely,



Derek R. Durbin, Esq.

LANDOWNER LETTER OF AUTHORIZATION

Nathan Alger, record owner of property located at **104 Thornton Street, Portsmouth, NH**, identified on **Tax Map 160, Lot 11** (the "Property"), hereby authorizes **Durbin Law Offices PLLC**, to file any building, zoning, planning or other municipal permit applications with the City of Portsmouth relative to the Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.



Nathan Alger

NARRATIVE VARIANCE APPLICATION

**104 Thornton Street
Tax Map 160, Lot 11**

**Nathan Alger
Owner/Applicant**

INTRODUCTION

The property at 104 Thornton Street is a 3,181 square foot corner lot located in the General Residence A (“GRA”) Zoning District (the “Property”). It has frontage on both Thornton and Sparhawk Streets. The Property has a single-family home with an attached carport on it that the Applicant, Nathan Alger, resides in with his fiancé and son. The existing home is quite small by modern living standards. It consists of 1247 square feet of finished living space and has two (2) bedrooms and one (1) bathroom. The carport, which is at the rear of the house and is accessed by a driveway on Sparhawk Street, was constructed by one of the former owners in 1967 and has fallen into significant disrepair. Similarly, the deck attached to the left side of the house is in poor condition and is not safe to congregate on. In its existing condition, the Property is non-conforming with respect to the **rear yard setback** and **building coverage**.

The Applicant would like to demolish the attached carport, which encroaches into the rear yard setback, and replace it with a one-car garage that has a bedroom and bathroom above it. In addition, the Applicant would like to demolish the deck and replace it with a two-story addition that includes a sunroom on the first floor and a small amount of living space above it. The proposed improvements and reconfiguration of the second floor will give the home a more functional floor plan that includes a much-needed third bedroom and second bathroom.

To accommodate the proposed improvements, there will be a slight increase in two (2) existing non-conformities of the Property (rear yard and coverage). To create a one-car garage of minimal width, the rear yard setback would be decreased from 5.7’ to 4.4’. Building coverage would also increase from 41.8% to 44.2%, which equates to **77 square feet of additional building footprint**. By way of comparison, the building footprint of the existing carport is 367. square feet. The footprint of the proposed garage addition is 375 square feet. The building footprint of the existing deck is 173 square feet. The building footprint of the proposed sunroom addition is 242 square feet. To partially offset the increase in non-conformity, the secondary front yard setback will be slightly improved from 5.6’ to 6.0 with the replacement of the carport with the garage addition.

In addition the variances above, the Applicant is seeking an after-the-fact variance for the existing fence in the primary front yard of the Property. The issue was recently flagged by the Planning Department staff that reviewed his plans for the Property. The fence was installed in 2022 following consultation with the Inspections Department, who informed him that a fence exceeding 4' in height was permitted on the Property, which is true if the fence is not located within a required front yard setback. Because the fence is greater than 4' in height and is within the front yard setback, it requires a variance from Section 10.515.13 of the Zoning Ordinance (the "Ordinance"). As such, the Applicant is seeking after-the-fact variance relief for the fence.

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

- (a) To allow a 4.4' (+/-) rear yard setback where 20' is required and 5.7' exists.
- (b) To allow a 6.0' (+/-) secondary front yard setback where 15' is required and 5.6' exists.
- (c) To allow 44.2% (+/-) building coverage where 25% is allowed and 41.8% exists.

Section 10.515.13

To allow a fence exceeding 4' in height with a 0' front yard setback where 15' is required and 0' 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.

Proposed Addition(s)

Building coverage and setback restrictions are intended to prevent the overcrowding of structures on land and to preserve the light, air and space of abutting properties. The increase in building coverage (77 sf.) is negligible and will not overcrowd the Property. The 1.3' decrease in the rear setback will not have a negative impact upon the light, air and space of the abutting property at 30 Sparhawk Street (TM 160-12). The owner of that property has indicated that she supports the application. **Exhibit A**. This will be partially offset by the improvement in the secondary front yard setback. The proposed garage addition will be parallel to and line up with the driveway that runs along the left (southerly) side of that property. The driveway acts as a natural buffer between the homes on the two properties. The existing home at 30 Sparhawk Street sits along the opposite boundary of that property and thus is not impacted by the additional setback encroachment. Most of the Christian Shore's neighborhood, particularly the block that the Applicant's Property lies within, is characterized by smaller, non-conforming lots that exceed the 25% building coverage threshold and have one or more structures that encroach into the yard setbacks, which is demonstrated by the assessing map and related property cards. **Exhibit B**.

Existing Fence

It appears that Section 10.515.13 of the Ordinance was primarily intended to preserve existing streetscapes and neighborhood aesthetics by prohibiting tall fences in front yards to avoid landowners "walling" off and creating a fortress-like effect with their properties. In addition, it is intended to maintain vehicular sight lines.

Corner lots, like the Applicant's Property, present a unique situation. The Thornton Street side of the Property acts as a side yard rather than a front yard, as the primary entrance to the home is off Sparhawk Street, not Thornton Street. The Applicant does not have a fence along the Sparhawk Street side of the Property. The fence does not even run along the entire length of the Thornton Street boundary. Instead, it extends off the Thornton Street side of the home to the corner of the Property and acts as a privacy buffer to the Applicant's backyard. It does not negatively alter the streetscape or neighborhood aesthetics. To the contrary, there are examples of similar "front yard" fences that can be found throughout the neighborhood, even on the non-corner lots. Moreover, the fence does not create any sight line or public safety concerns, as it is setback at least 10' from the edge of the paved portion of Thornton Street.

Granting the variances will have no tangible impact upon abutting properties or the neighborhood. Accordingly, it will not alter the essential character of the neighborhood or otherwise threaten the public, health, safety or welfare of its residents. There is no threat to public health, safety or welfare implicated by the variances being requested.

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 loss to the Applicant for the Board to deny the variances necessary to modestly expand the existing home to create a third bedroom, second bathroom and an enclosed one-car garage. The proposed additions to the home will be constructed almost entirely within the footprint of already existing structures. The increase in non-conformity is minimal and will not have any tangible impact upon abutting properties or the surrounding neighborhood. In the present instance, the loss to the Applicant in denying the variances clearly outweighs any gain to be realized by the public.

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 additions are 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 update the exterior with a fresh, attractive appearance that gives the Property better curbside appeal than exists. The fence does nothing other than create aesthetic curbside appeal for the Property. Therefore, granting the variances should only preserve or enhance surrounding property values.

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

Proposed Additions

The Property has special conditions that distinguish it from surrounding properties. It is also one of the smallest lots in the neighborhood at approximately 0.7 acres. **Exhibit C.** The average size of the sixteen (16) properties immediately surrounding it is .11 acres (4,792 sf.). It has less than 43% of the total area needed for a conforming lot in the GRA Zoning District. In addition, it is a corner lot with two separate 15’ front yards as opposed to one 15’ front yard and two 10’ side yards. These factors combine to severely limit the buildable area of the Property in comparison with surrounding properties. The Property is already non-conforming with respect to building coverage (41.8%) and the rear yard setback (5.7’), conditions which will remain should the variances be denied. With respect to the rear yard setback, the Property benefits from the neighboring property’s (TM 160-12) side yard and driveway acting as a natural buffer between homes on each property. The proposed increase in non-conformity is minor and does not deviate from the general purposes of the building coverage and setback restrictions, which are intended to manage building density (crowding) and separation. The Applicant will also be bringing the Property into slightly greater compliance with the 15’ secondary front yard setback requirement.

Existing Fence

With respect to the existing fence, the Ordinance does not contemplate “corner lot” situations like the Applicant’s where there are two (2) front yards. The Ordinance merely seeks to prevent landowners from walling off their property on all sides. This creates a unique condition with the Applicant’s property, as the existing home is accessed from Sparhawk Street even though it has a Thornton Street address. The Thornton Street side of the Property, where the fence runs along a portion of the boundary, is the functional equivalent to a “side yard”. There is no fence along the Sparhawk side of the Property. The Property is not walled off and maintains the prevailing neighborhood aesthetic.

In addition to seeking to protect against the “fortressing effect”, the Ordinance seeks to maintain unobstructed sight lines for passing vehicles. In the present case, the fence extends off the left side of the existing home and is set back at least 10’+ from the edge of the paved portion of the ROW. It does not create any visual obstruction apart from the home itself. In the end, the objectives that Section 10.515.13 of the Ordinance is trying to achieve are met relative to the Applicant’s Property.

Owing to the special conditions of the Property, there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their specific application to the Property.

Finally, the proposed use of the Property is reasonable. The Property will continue to be used for single-family residential purposes, consistent with the permitted uses within the GRA Zoning District.

CONCLUSION

The Applicant thanks the Board for its time and consideration of the application and respectfully requests approval of the variances being requested.

Respectfully Submitted,

Nathan Alger, Owner/Applicant

September 18, 2026
(revised 10-6-26)

By: 

Derek R. Durbin, Esq.
DURBIN LAW OFFICES PLLC
154 Maplewood Avenue
Portsmouth, NH 03801
(603)-287-4764
derek@durbinlawoffices.com



EXHIBIT A

Derek Durbin <derek@durbinlawoffices.com>

DURBIN LAW

104 thorton st

1 message

melissa hudlin <mhbluewaters@gmail.com>
To: derek@durbinlawoffices.com

Mon, Oct 5, 2026 at 8:32 PM

Hi Derek,

I am Nathan's abutting neighbor on 30 Sparhawk st
He and I met the other day. Based on what he showed me/described etc... I don't see any issues. And as I understand it, he is not extending the overall height of the home just adding additions. Nathan has done a great job improving the home and adding value to the neighborhood!

If you have any questions, please reach out.

Thank you
Missie Hudlin
415-518-5489

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

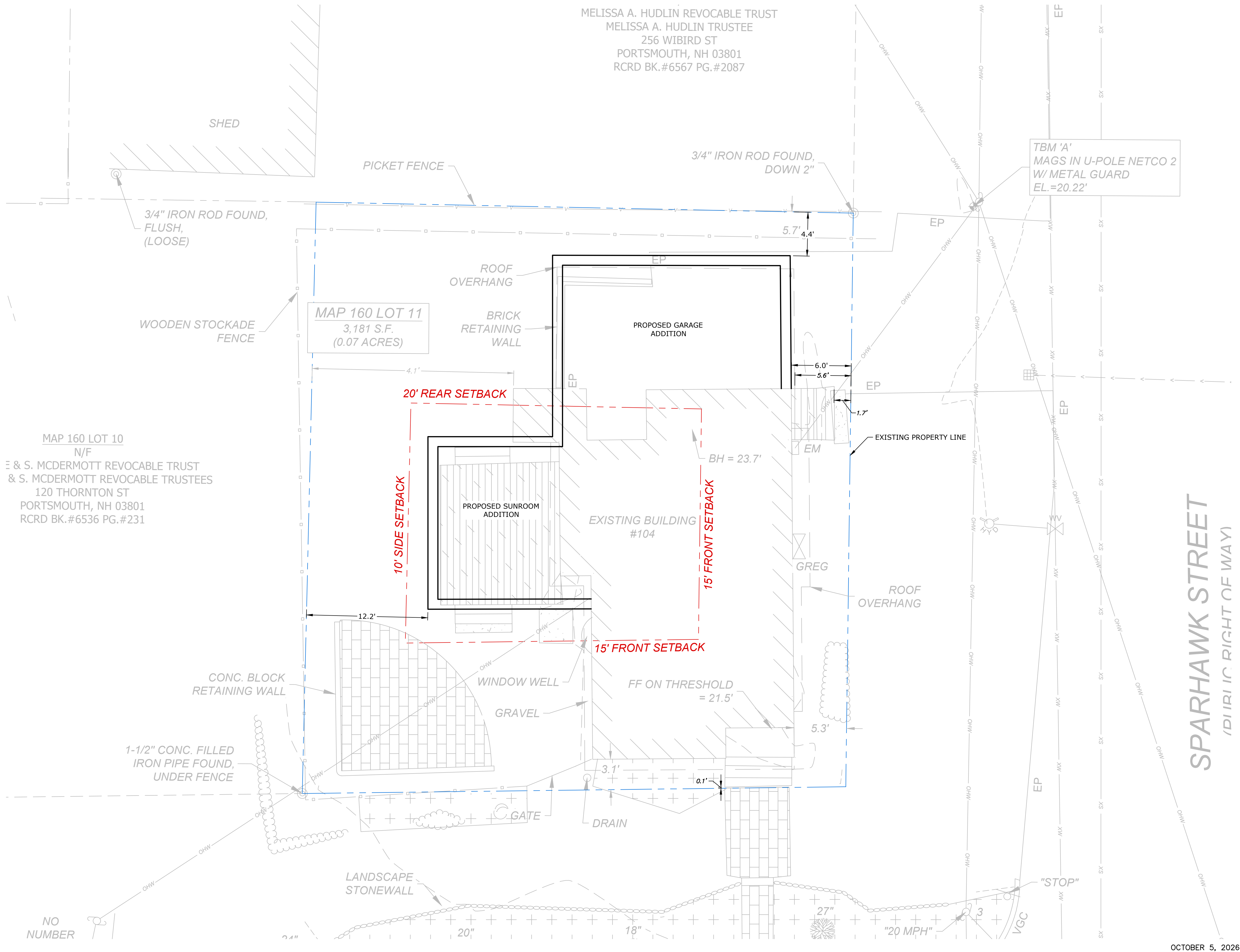
City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 09/15/2026

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

EXHIBIT C

Address	Tax Lot	Size (AC)	
104 Thornton Street	160-11	0.07	3181
30 Sparkhawk Street	160-12	0.09	3920
26 Sparkhawk Street	160-13	0.07	3049
406 Dennett Street	160-14	0.07	3049
120 Thornton Street	160-10	0.13	5663
130 Thornton Street	160-09	0.06	2614
140 Thornton Street	160-8	0.07	3049
29 Burkitt Street	160-19	0.11	4792
21 Burkitt Street	160-18	0.07	3049
436 Dennett Street	160-17	0.17	7405
88 Thornton Street	160-7	0.25	10890
29 Sparkhawk Street	160-6	0.11	4792
25 Sparkhawk Street	160-5	0.16	6970
384 Dennett Street	160-4	0.13	5663
105 Thornton Street	159-18	0.09	3920
133 Thornton Street	159-19	0.17	7405
139 Thornton Street	159-20	0.08	3485



104 THORNTON STREET

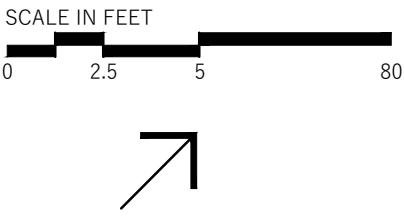
PORTSMOUTH, NH

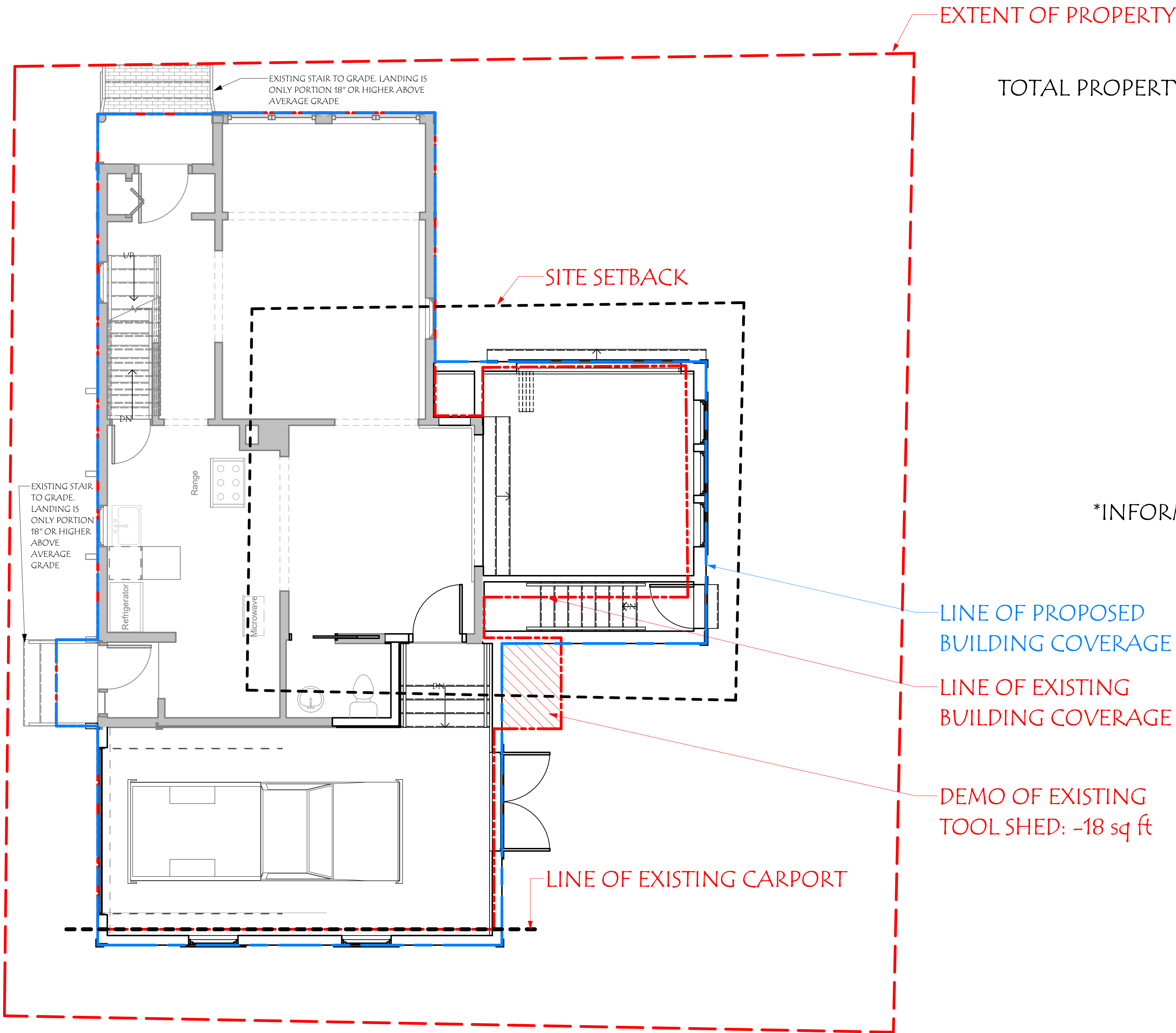
SITE DATA:
PROJECT LOCATION: TAX MAP 160, LOT 11
104 THORNTON STREET
PORTSMOUTH, NEW HAMPSHIRE
SITE ZONING DISTRICT: RESIDENTIAL DISTRICT, GENERAL RESIDENCE A (GRA)
ALLOWED USES ON SITE: SINGLE FAMILY DWELLING

DEVELOPMENT STANDARDS			
DIMENSIONAL REQUIREMENTS:	REQUIRED (GRA)	EXISTING (GRA)	PROPOSED(GRA)
MINIMUM LOT AREA:	7,500 SF	±3,181 SF	±3,181 SF
MINIMUM LOT FRONTAGE:	100 FT	112.32 FT	112.32 FT
MINIMUM LOT DEPTH:	70 FT	59.5 FT	59.5 FT
MINIMUM FRONT SETBACK:	15 FT	3.0 FT	3.0 FT
MINIMUM SIDE SETBACK:	10 FT	20.3 FT	12.2 FT
MINIMUM REAR SETBACK:	20 FT	5.7 FT	4.4 FT ⁽¹⁾
MAXIMUM BUILDING HEIGHT:	35 FT	23.7 FT	24.3 FT
MINIMUM OPEN SPACE:	30%	63.9%	56.2%
MAXIMUM BUILDING COVERAGE:	25%	41.8% ⁽²⁾	44.2% ⁽³⁾

NOTES:
(1) - ZONING RELIEF REQUIRED FOR A REDUCTION IN REAR YARD SETBACK PER SECTION 10.521.
(2) - THE EXISTING DECK IS GREATER THAN 18" ABOVE THE GROUND FLOOR THEREFORE IS INCLUDED IN THE BUILDING FOOTPRINT PER SECTION 10.1530.
(3) - ZONING RELIEF REQUIRED FOR AN INCREASE IN BUILDING COVERAGE PER SECTION 10.521.

CONCEPTUAL SITE PLAN





TOTAL PROPERTY SQUARE FOOTAGE per TIGHE + BOND CIVIL ENGINEERS: 3181 sq ft

EXISTING BUILDING COVERAGE: 1331 sq ft (41.8% of lot)
PROPOSED BUILDING COVERAGE: 1408 sq ft (44.2% of lot)
(+77 sq ft, 2.4% of lot)

EXISTING SIDE DECK FOOTPRINT: 173 sq ft
PROPOSED SIDE ADDITION FOOTPRINT: 242 sq ft
(+69 sq ft)

EXISTING CARPORT FOOTPRINT: 367 sq ft
PROPOSED GARAGE ADDITION FOOTPRINT: 375 sq ft
(+8 sq ft)

*INFORMATION PROVIDED IS APPROXIMATE AND FOR REFERENCE ONLY.
VERIFY WITH CIVIL ENGINEER*



RED FOX
ARCHITECTS

104 Congress Street, STE 201
Portsmouth, NH 03801
PH: 603.441.2485

ALGER RESIDENCE

104 THORNTON ST. PORTSMOUTH, NH

NOT FOR CONSTRUCTION

Date:

Revisions:

#

Description

1/4" = 1'-0"

CW

RH

26005

9/22/2026

Title:

PROPOSED SITE PLAN

Scale:

Drawn By:

Checked By:

Project No.:

EXISTING CONDITIONS

Date:

A1.00

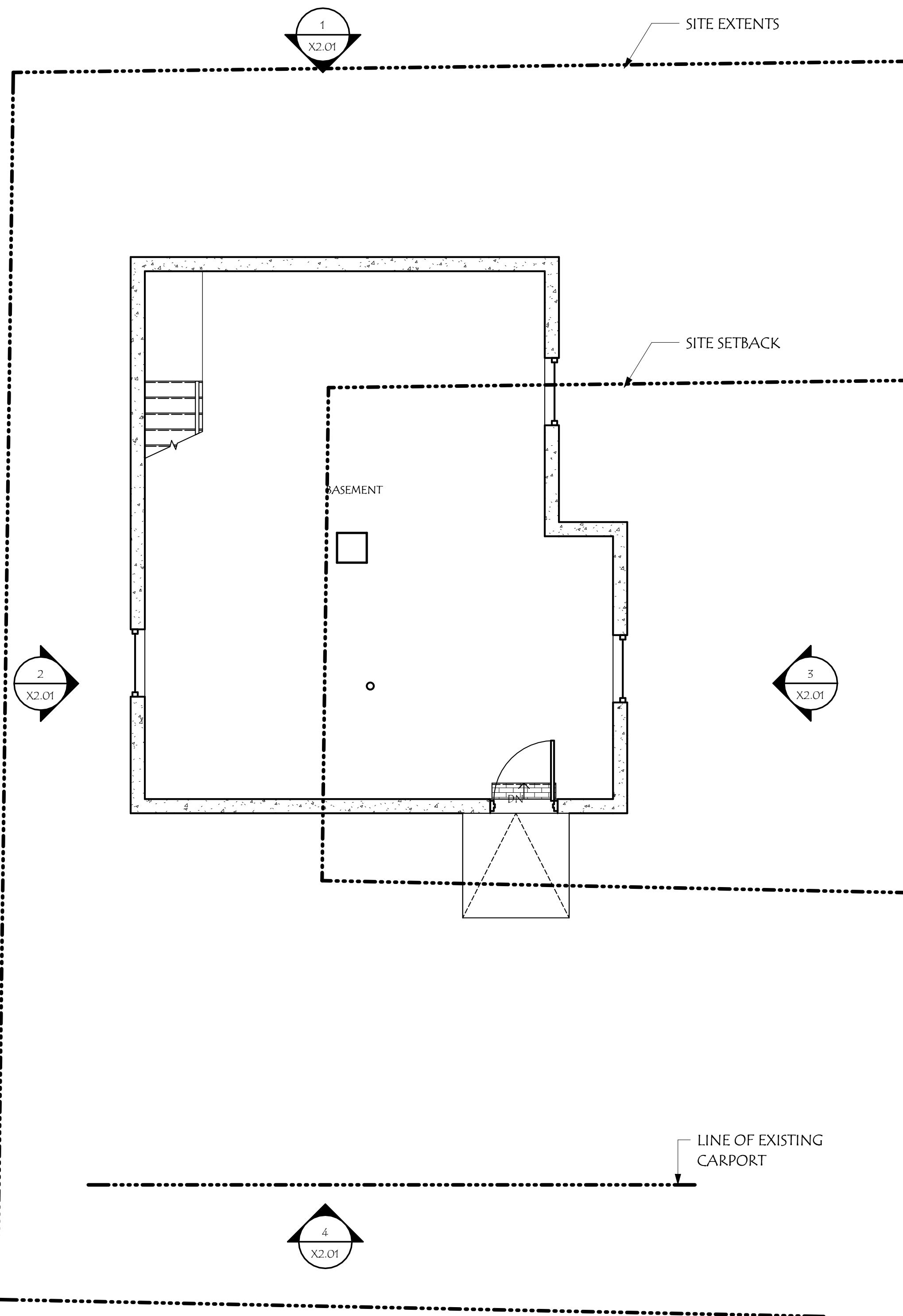
2026 Red Fox Architects

ALGER RESIDENCE
104 THORNTON ST. PORTSMOUTH, NH

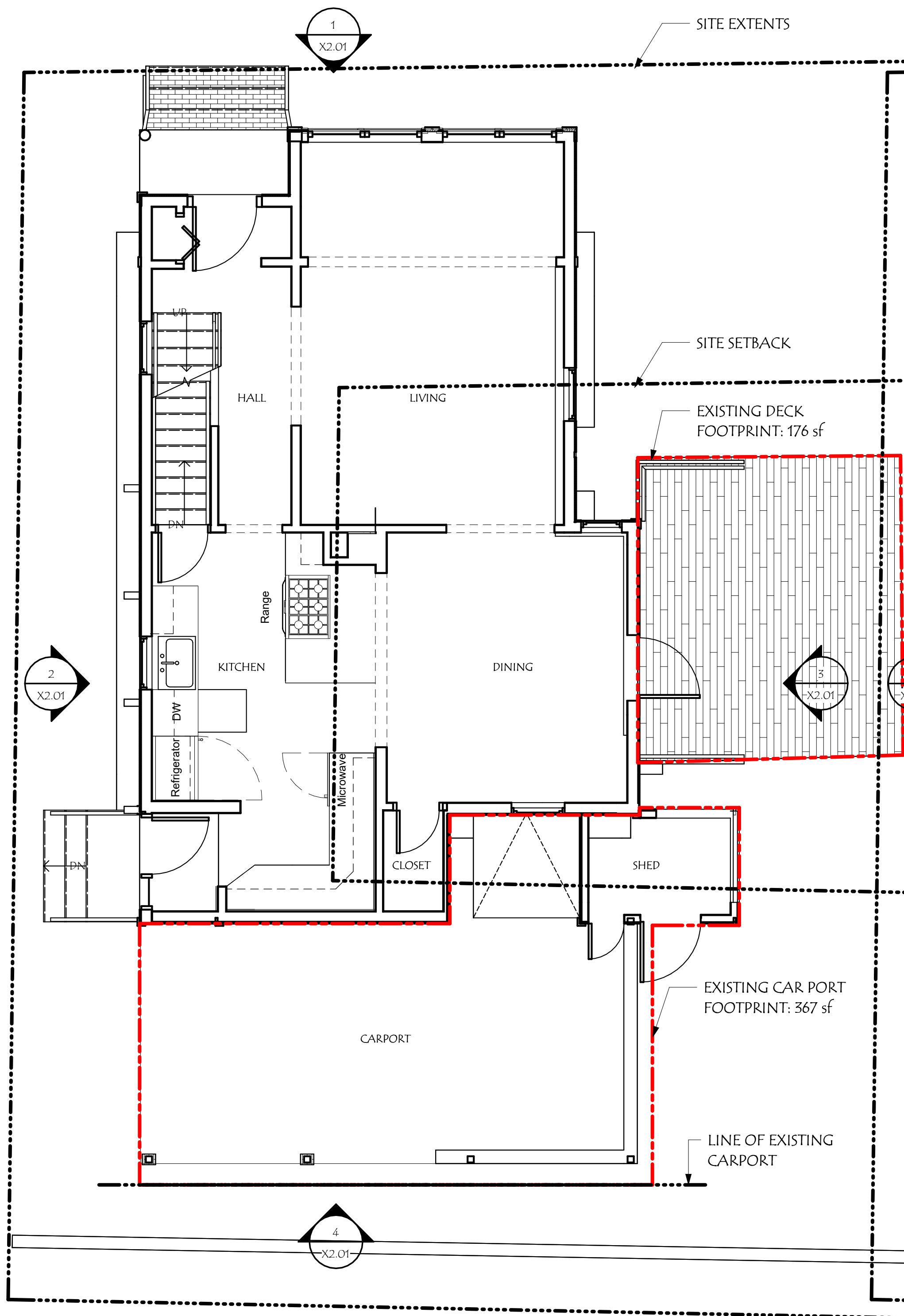
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CONSTRUCTION**

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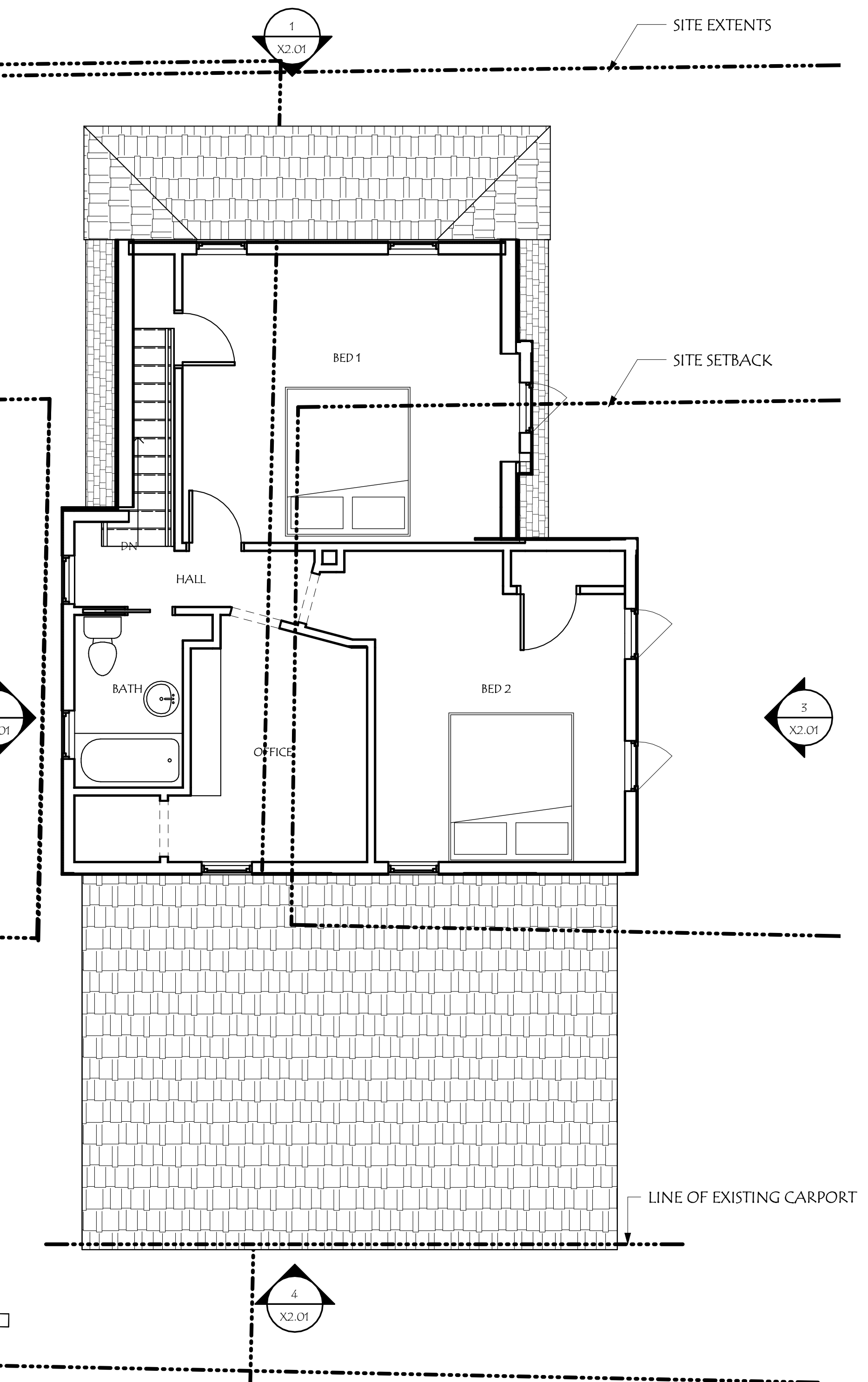
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Project No.: EXISTING CONDITIONS	
Date:	



2 EX. LEVEL 0 PLAN
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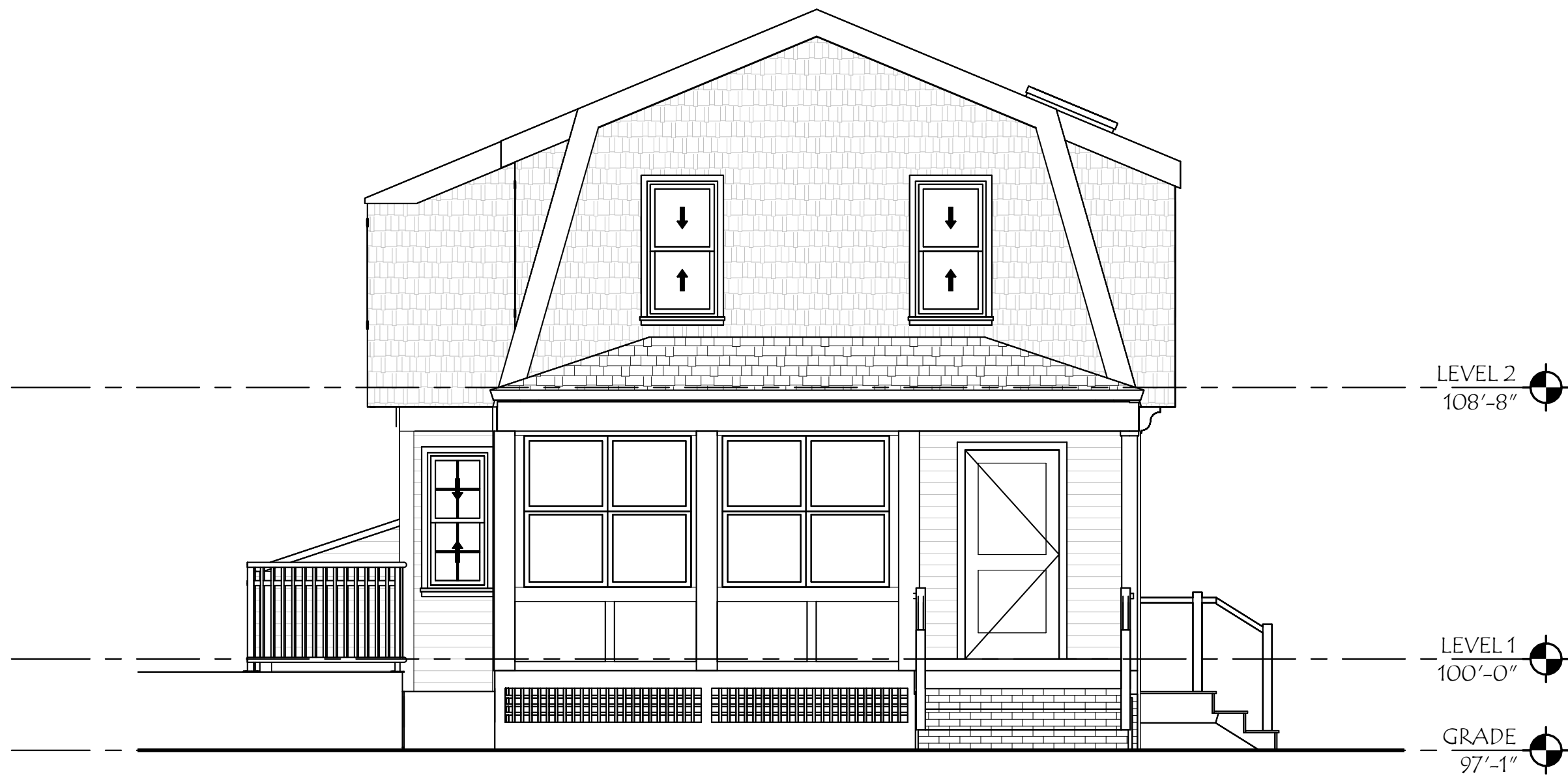
1 EX. LEVEL 1 PLAN
SCALE: 1/4" = 1'-0"



3 EX. LEVEL 2 PLAN
SCALE: 1/4" = 1'-0"

EXISTING FINISHED SQUARE FOOTAGE: 692 sq ft

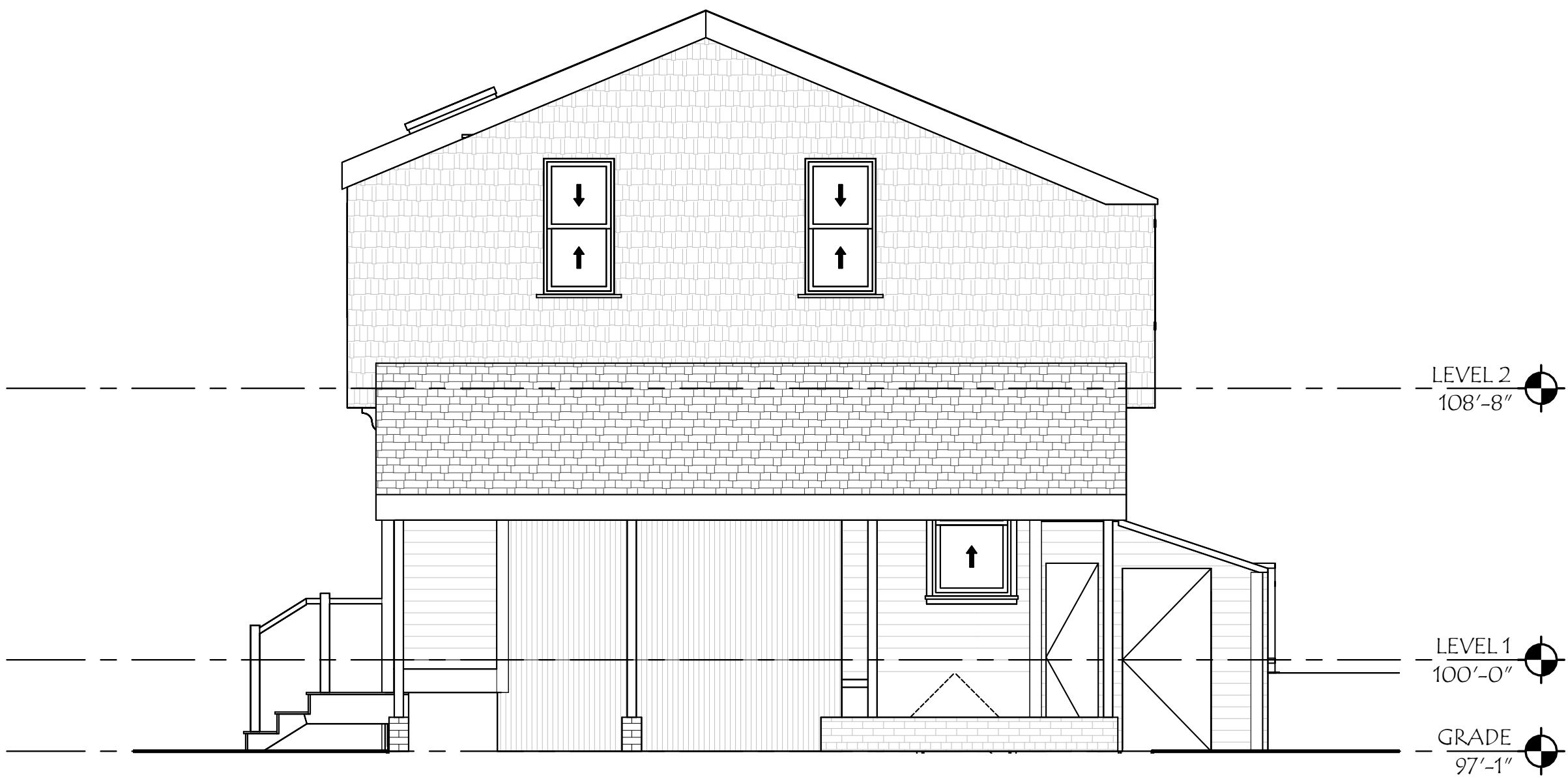
EXISTING FINISHED SQUARE FOOTAGE: 555 sq ft
TOTAL EXISTING FINISHED SQUARE FOOTAGE: 1247 sq ft



1 EX. THORNTON ST ELEVATION
SCALE: 1/4" = 1'-0"



2 EX. SPARHAWK ST ELEVATION
SCALE: 1/4" = 1'-0"



4 EX. CARPORT ELEVATION
SCALE: 1/4" = 1'-0"



3 EX. SIDEYARD ELEVATION
SCALE: 1/4" = 1'-0"

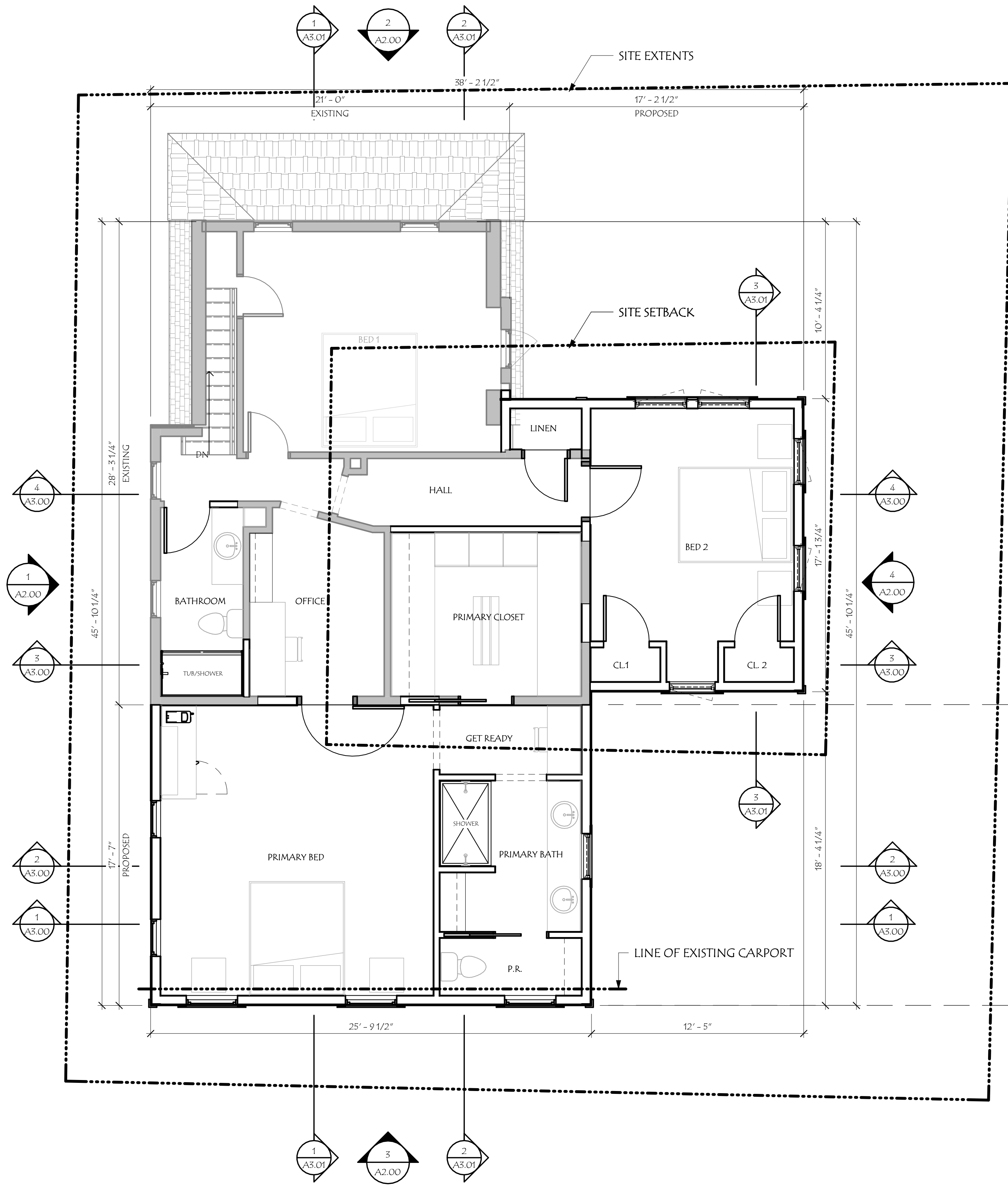


ALGER RESIDENCE
104 THORNTON ST. PORTSMOUTH, NH

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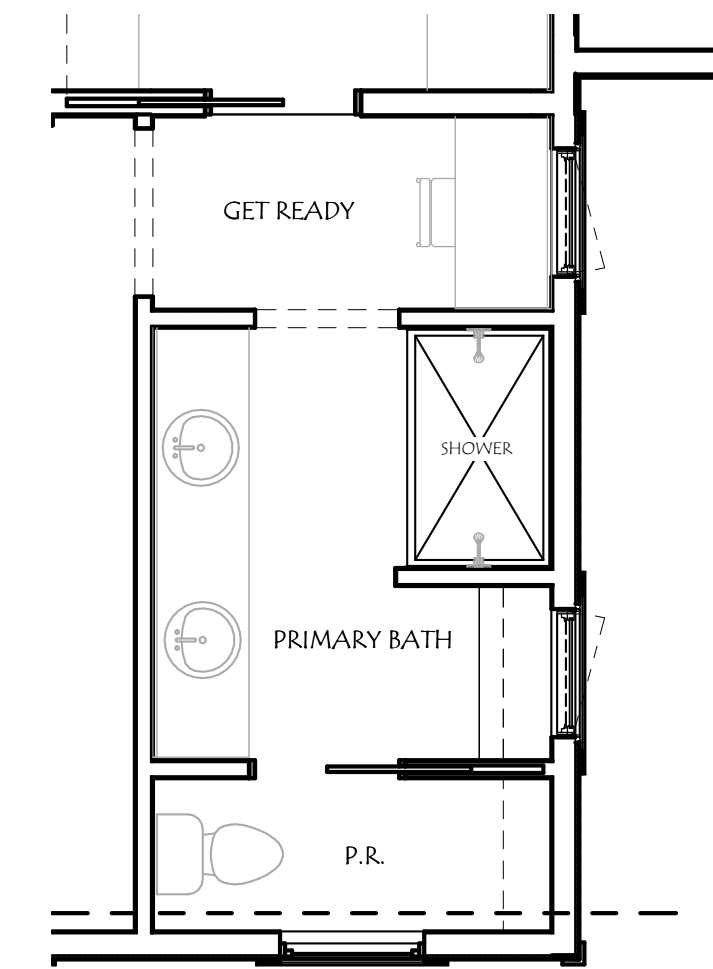
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	Project No.:	26005		
	EXISTING CONDITIONS			
	Date:	9/22/2026		



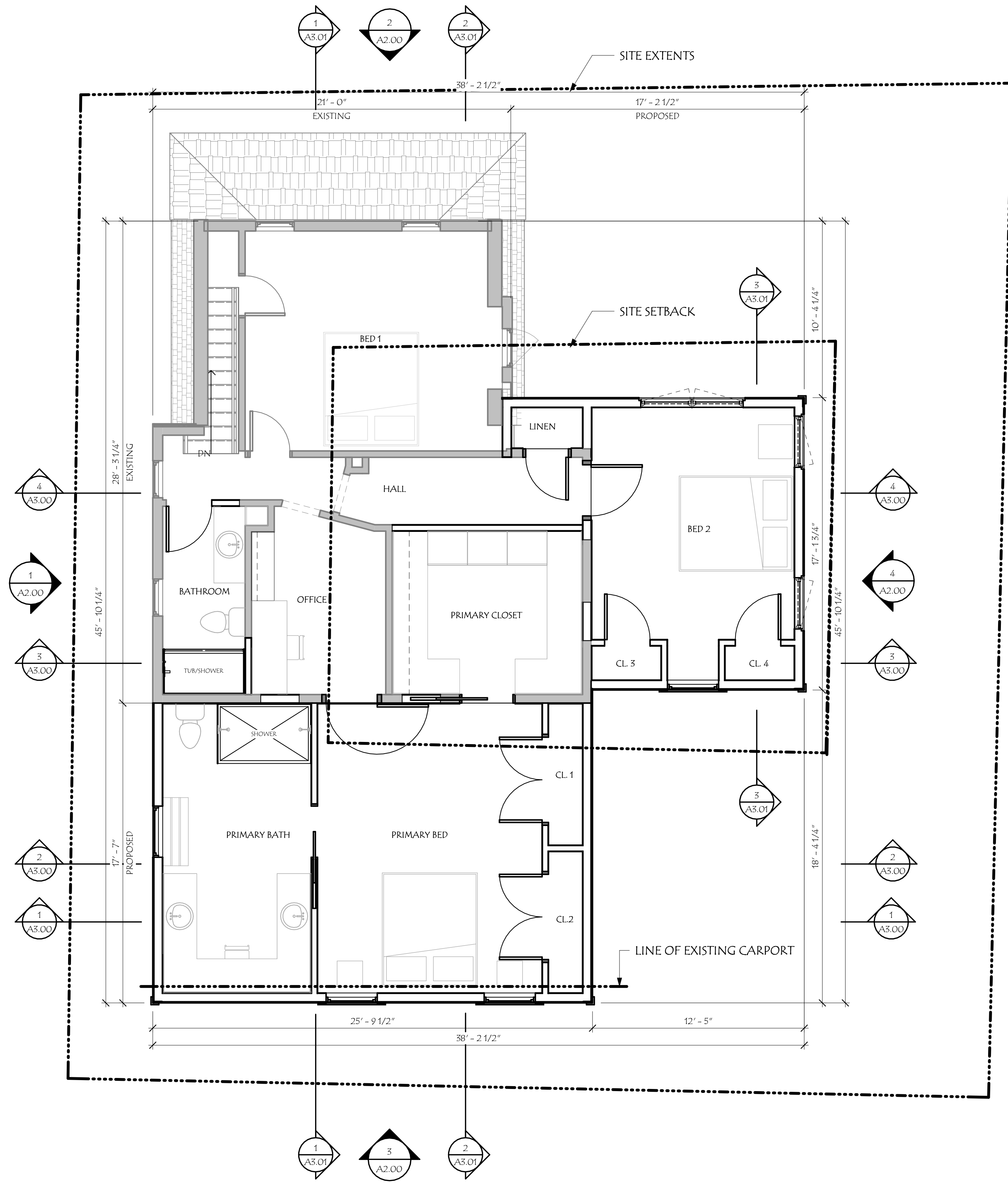


1 LEVEL 2 - OPTION 1
SCALE: 1/4" = 1'-0"

EXISTING LEVEL 2 FINISHED SQUARE FOOTAGE: 555 sq ft
PROPOSED ADDITIONAL LEVEL 2 FINISHED SQUARE FOOTAGE: 654 sq ft
TOTAL LEVEL 2 PROPOSED SQUARE FOOTAGE: 1209 sq ft



2 BATH OPTION 2
SCALE: 1/4" = 1'-0"



1 LEVEL 2 - OPTION 2
SCALE: 1/4" = 1'-0"

EXISTING LEVEL 2 FINISHED SQUARE FOOTAGE: 555 sq ft
PROPOSED ADDITIONAL LEVEL 2 FINISHED SQUARE FOOTAGE: 654 sq ft
TOTAL LEVEL 2 PROPOSED SQUARE FOOTAGE: 1209 sq ft

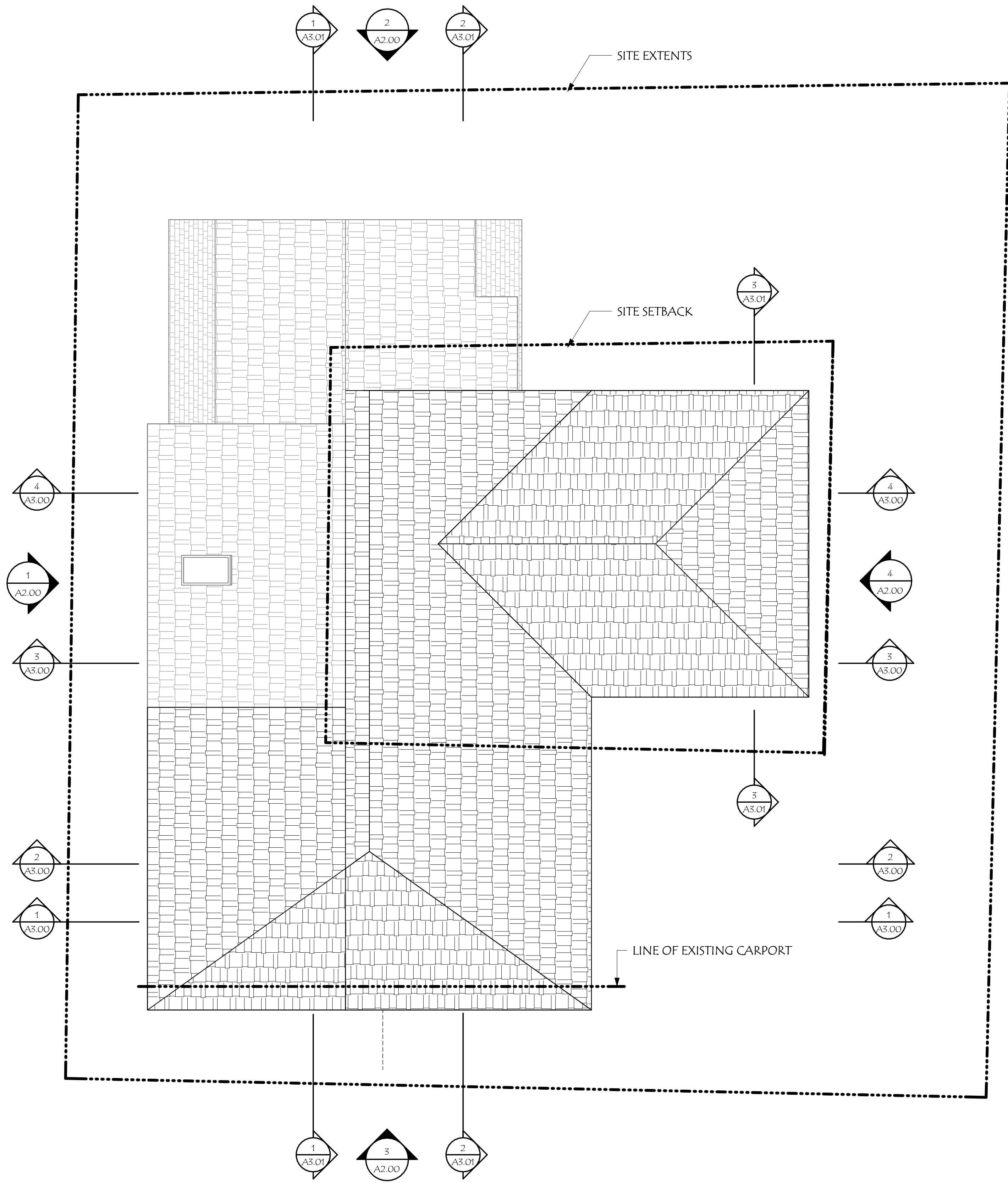
ALGER RESIDENCE
104 THORNTON ST. PORTSMOUTH, NH

**NOT FOR
CONSTRUCTION**

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4	26005
5	9/22/2026

Title:	OVERALL LEVEL 2 FLOOR PLAN OPT 2
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Checked By:	RH
Project No.:	26005
EXISTING CONDITIONS	
Date:	9/22/2026

A1.03b



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

EXISTING LEVEL 1 FINISHED SQUARE FOOTAGE: 692 sq ft
PROPOSED ADDITIONAL LEVEL 1 FINISHED SQUARE FOOTAGE: 198 sq ft
TOTAL FINISHED PROPOSED SQUARE FOOTAGE: 890 sq ft

EXISTING LEVEL 2 FINISHED SQUARE FOOTAGE: 555 sq ft
PROPOSED ADDITIONAL LEVEL 2 FINISHED SQUARE FOOTAGE: 654 sq ft
TOTAL LEVEL 2 PROPOSED FINISHED SQUARE FOOTAGE: 1209 sq ft

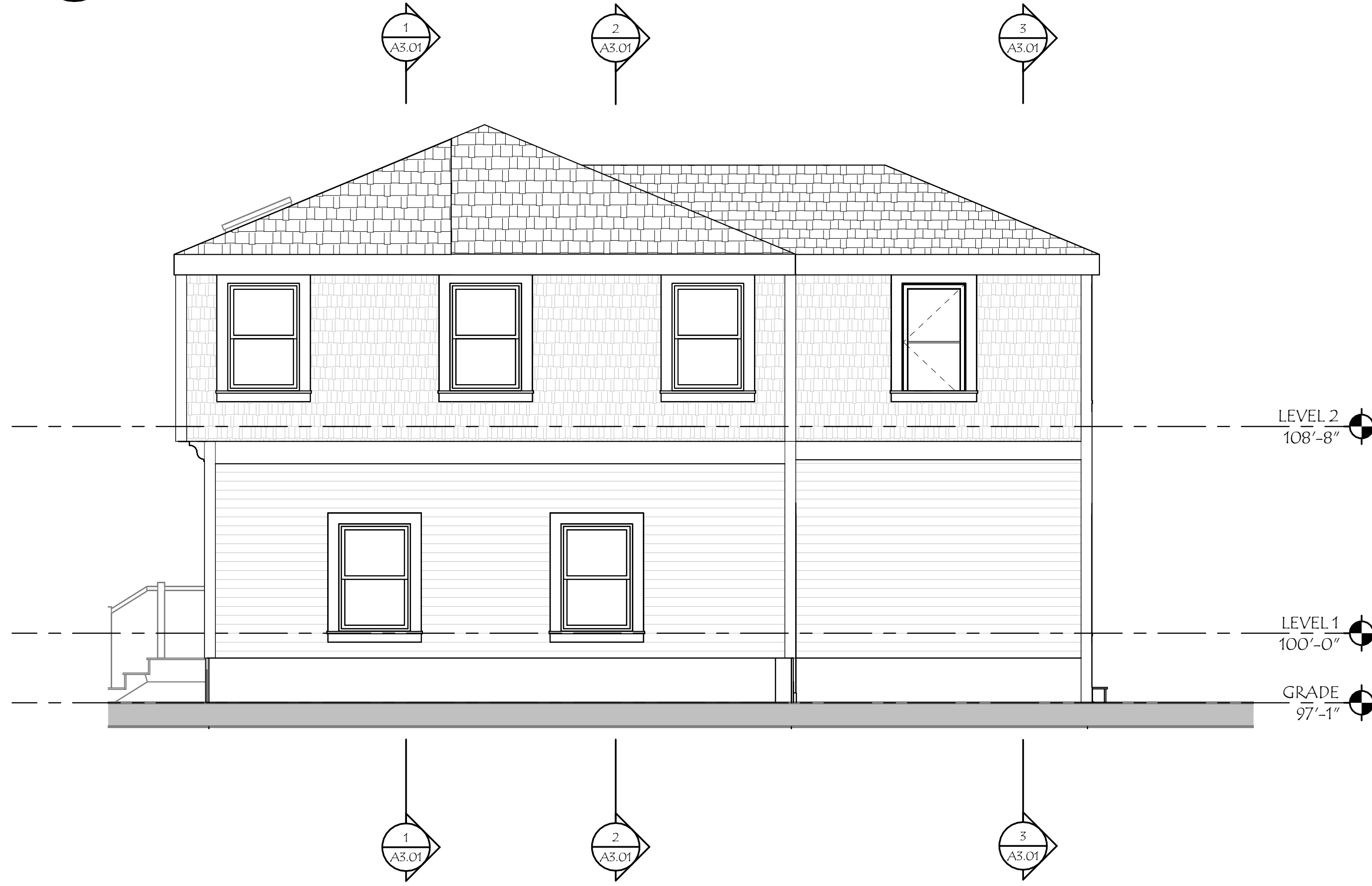
TOTAL EXISTING FINISHED SQUARE FOOTAGE: 1247 sq ft
TOTAL PROPOSED FINISHED SQUARE FOOTAGE: 2099 sq ft

*Finished square footage is measured to inside face of stud and includes sq ft of interior partition walls
Garage and basement are excluded from finished square footage but is included in overall footprint*



2 THORNTON ST ELEVATION
SCALE: 1/4" = 1'-0"

1 SPARKHAWK ST ELEVATION
SCALE: 1/4" = 1'-0"



3 CARPORT ELEVATION
SCALE: 1/4" = 1'-0"

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



RED FOX
ARCHITECTS

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PH: 603-441-2485

ALGER RESIDENCE
104 THORNTON ST. PORTSMOUTH, NH

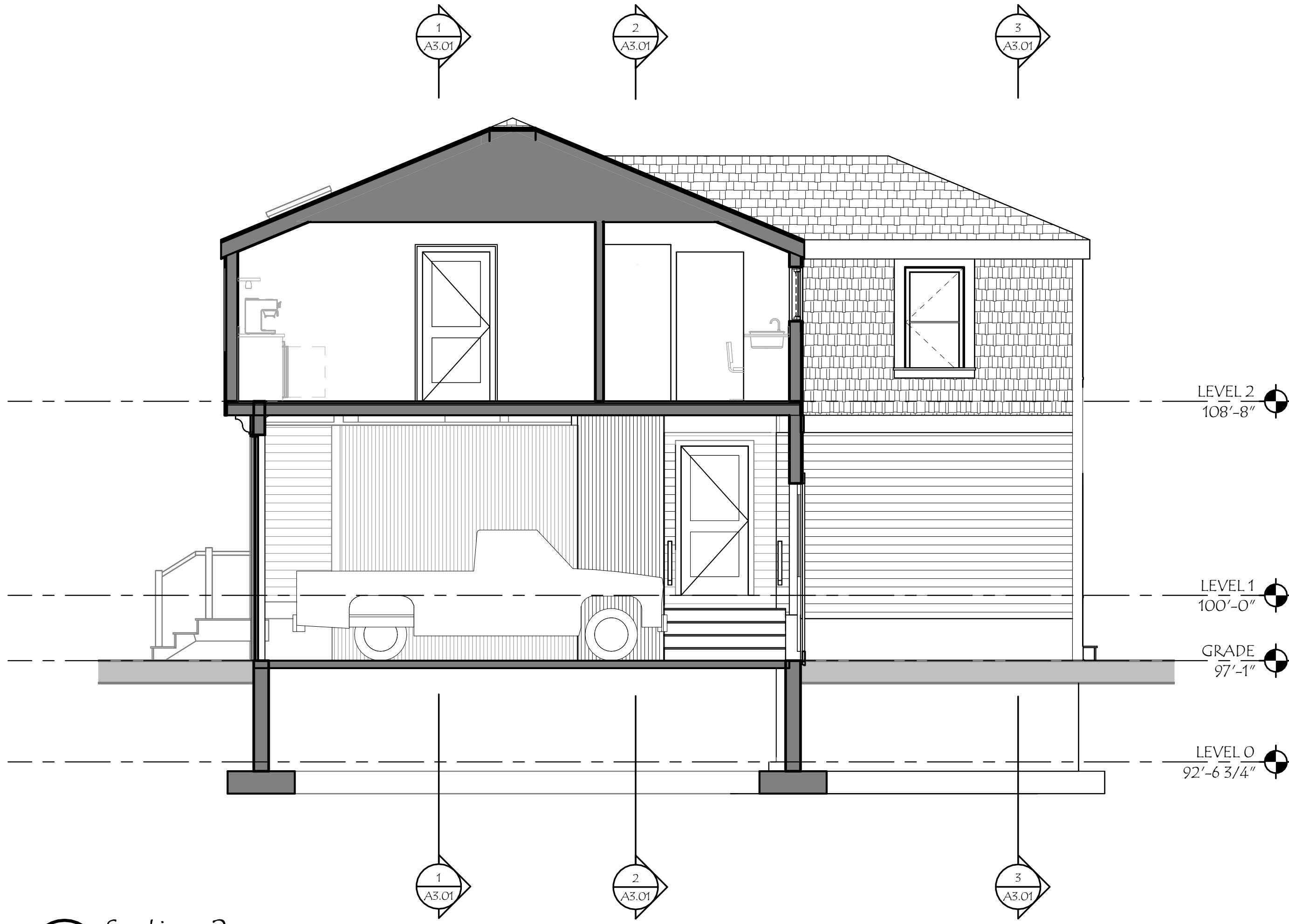
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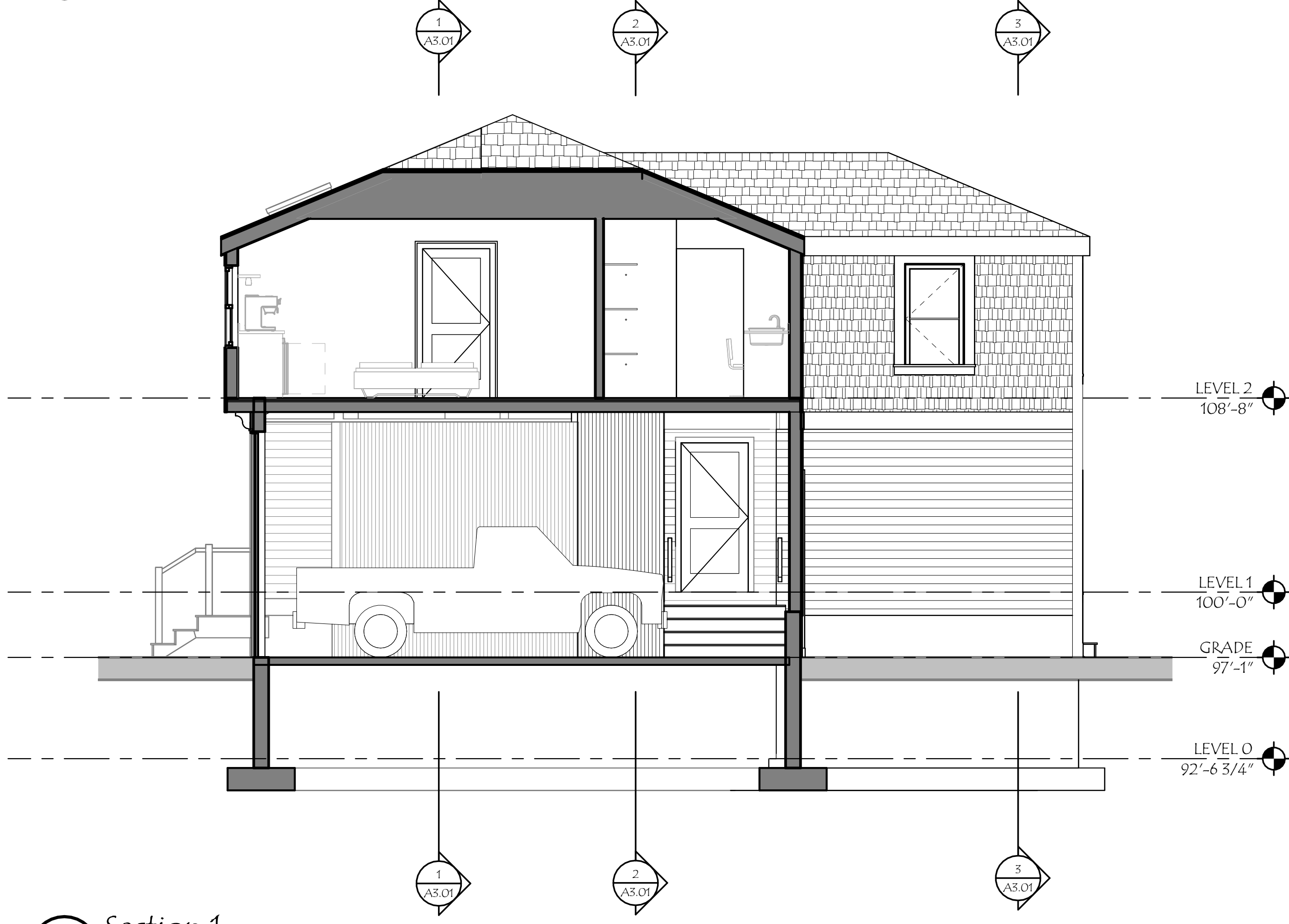
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Title:	A2.00
EXTERIOR ELEVATIONS	

© 2026 Red Fox Architects 9/22/2026 4:09:08 PM



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

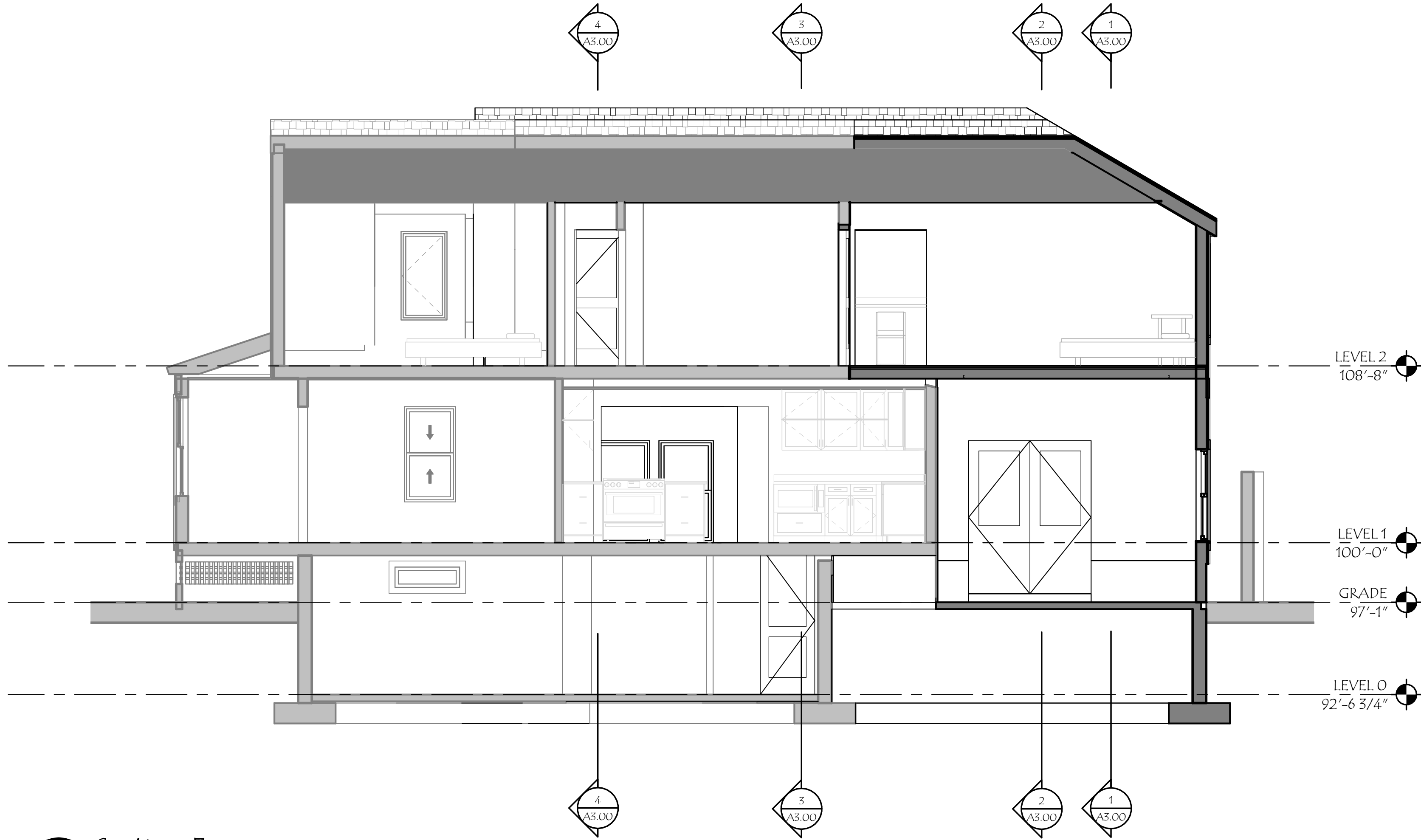


4 Section 4
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3 Section 3
SCALE: 1/4" = 1'-0"

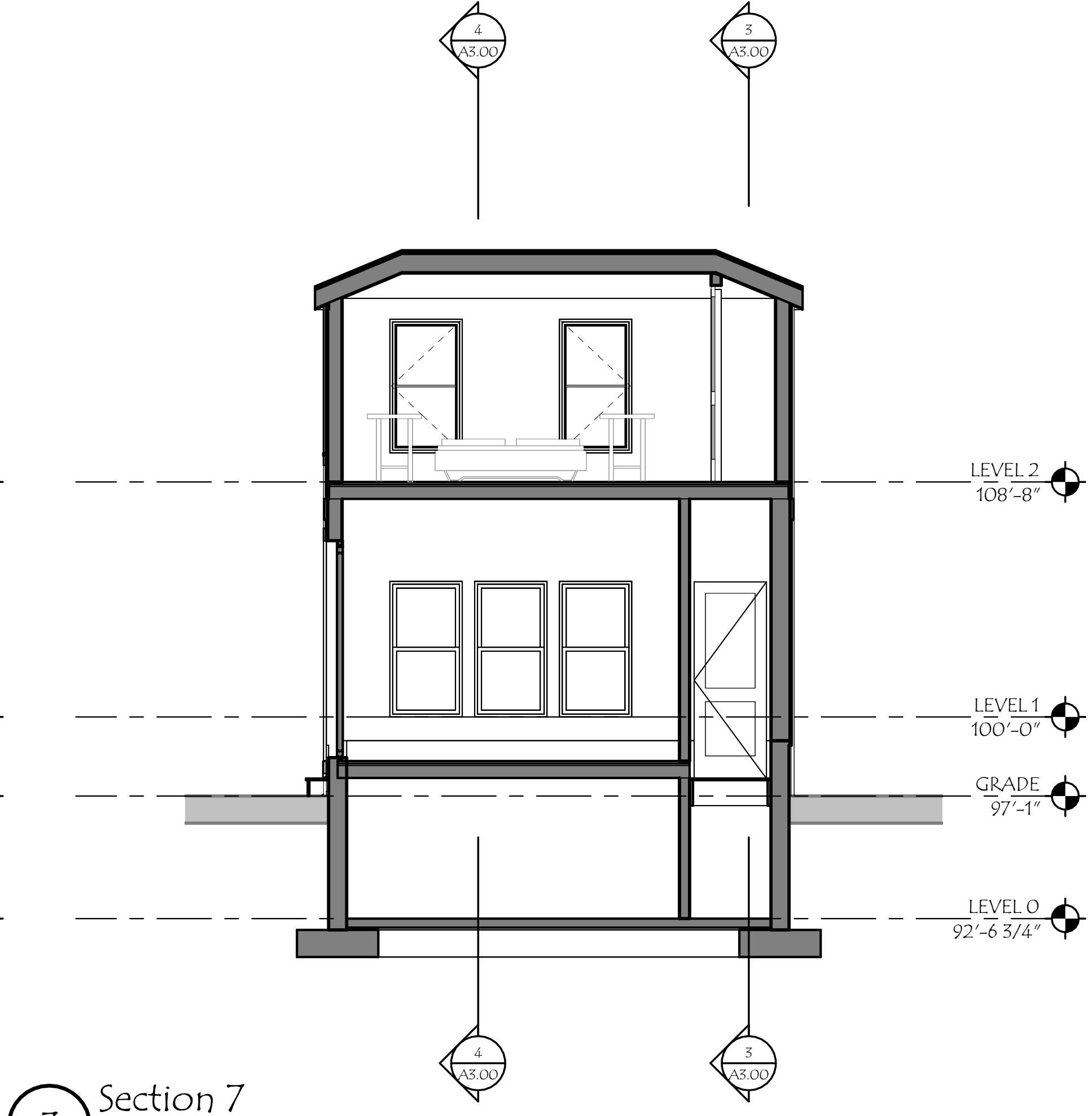
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			EXISTING CONDITIONS
			Date:



1 Section 5
SCALE: 1/4" = 1'-0"



2 Section 6
SCALE: 1/4" = 1'-0"



3 Section 7
SCALE: 1/4" = 1'-0"

BUILDING SECTION GENERAL NOTES	
1.	



ALGER RESIDENCE
104 THORNTON ST. PORTSMOUTH, NH

NOT FOR
CONSTRUCTION

Revisions:		Date
#	Description	
As indicated	CW RH	
26005		9/22/2026
Scale:	Drawn By:	Project No.:
	Checked By:	EXISTING CONDITIONS
		Date:

Title: BUILDING LONGITUDINAL SECTIONS	A3.01



Overhead View (Rear Elevation)



Overhead View (Sparhawk Street Elevation)



Front Elevation (Thornton Street)



Side Yard Elevation*

***Photo shows former fence in primary front yard (pre-2022)**



Side Yard Elevation



Carport (Sparhawk Street)



Carport “Structural” Supports



**Abutting Driveway Adjacent to Carport (TM 160-12)
30 Sparhawk Street**