

**APPLICATION OF JESSICA KAISER and JOHN McMAHON**  
**30 SPRING STREET, PORTSMOUTH**  
**Map 130, Lot 13**

**APPLICANT'S NARRATIVE**

**I. THE PROPERTY:**

The applicants, Jessica Kaiser and John McMahon, own the single family residence located at 30 Spring Street, where they live with their three young children. They propose to add a covered farmers porch and second story bay window to the front of the dwelling. The porch would be aligned with the existing footprint of the house.

As a result of the pandemic, a covered porch is desirable as home deliveries are ever increasing, and a safe, sheltered space for such deliveries is needed. In addition, the porch will provide a sheltered environment from which the applicants may keep an eye on their young children when they play with their friends on Spring Street.

As this board is aware, recently the applicant unsuccessfully sought approvals for a covered porch which wrapped around the right side of the house and required side and front yard setback relief. Based on feedback from members of the board, the applicant has redesigned the porch so that there will be no additional side yard setback encroachment beyond the existing footprint of the house.

According to city tax records, the home was constructed in 1900. The existing attached garage was added 2004. The property is in the GRA zone and is non-conforming as to frontage, lot area, building coverage and front and side yard setbacks.

The dwelling's existing right side yard setback at its closest point is .4 feet. The front yard setback is 6.1 feet, however, what appears for all intents and purposes as the majority of the applicants' front lawn is in fact outside the boundary of their property. This is consistent all along this portion of Spring Street. The applicant has not calculated the applicable average front yard within 200 feet of the property to take advantage of the front yard exception for existing alignments contemplated by Section 10.516.10, but it is assumed that this would create a minimum setback far less than 15 feet. We have submitted both the static and MapGeo tax maps for the board's consideration to obtain an understanding of the existing front yards on Spring Street. The current building coverage is 26.8%, where 25% is the maximum permitted.

The proposed porch would also fall within the 15 foot front yard setback and the 10 foot right side yard setback.

The proposed covered porch will be 5" from the front property line and 4' from the side property line. The steps down from the existing front door landing actually extend over the property line now and will do so with the proposed porch. It should be noted that the steps from the porch of the neighbor to the right and the house to the left

also extend past the property line, a condition that occurs in at least two other instances on Spring Street. The proposed porch would add 72 square feet of building coverage.

The applicants therefore need relief from Section 10.521 to permit a front yard setback of 5' where 15 feet is required, a side yard setback of 4 feet where 10 feet is required, and building coverage of 29% where 25 % is the maximum permitted.

## **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 would not be altered by this project. The existing structure and lot are already non-compliant with front and side yard setback and building coverage requirements, as are most if not all of the properties on this section of Spring Street.

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 porch will encroach into the front yard setback, however it is consistent with the look and feel of the neighborhood and is tastefully integrated to complement the existing dwelling. The side yard encroachment is consistent with the existing footprint of the main dwelling structure. Accordingly, the loss to the applicants

clearly outweighs any gain to the public if the applicants were required to conform to the ordinance.

**The values of surrounding properties will not be diminished by granting the variance.** The proposal will improve the streetscape along Spring Street 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 dwelling is oriented well to the front of the property, although the paved portion of the Spring Street right of way is actually several feet further away from the dwelling.

**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 of properties. The porch will increase the front yard nonconformity, although the paved portion of the Spring Street right of way is actually several feet further away from the dwelling, so it will not conflict at all with the travelled way. The porch does not encroach into the side yard setback any more than the existing dwelling. The amount of additional building coverage proposed, 72 square feet, is minimal and 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: 3-10-2021

By: *John K. Bosen*  
John K. Bosen, Esquire



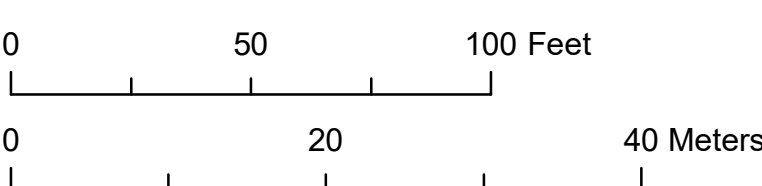
**Partial Legend**  
 See the cover sheet for the complete legend.

- 7-5A** Lot or lot-unit number
- 2.56 ac Parcel area in acres (ac) or square feet (sf)
- 25 Address number
- 233-137 Parcel number from a neighboring map
- 68' Parcel line dimension
- Street name

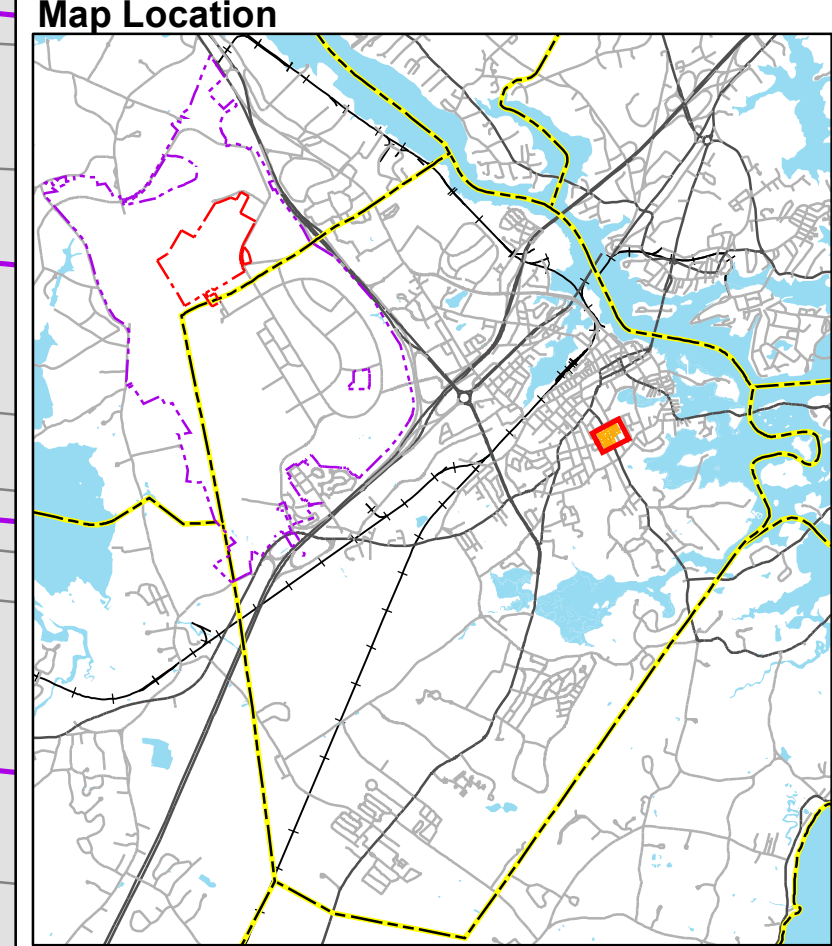
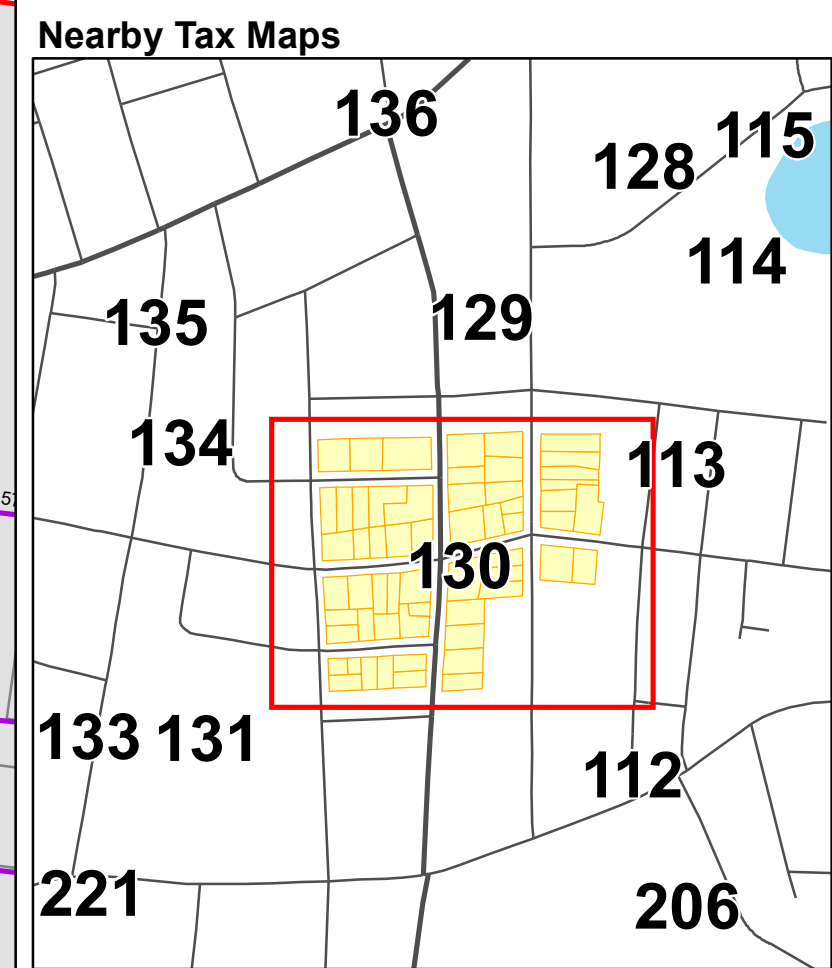
**SIMS AVE**  
 Street name

- Parcel/Parcel boundary
- Parcel/ROW boundary
- Water boundary
- Structure (1994 data)

- Parcel covered by this map
- Parcel from a neighboring map (see other map for current status)

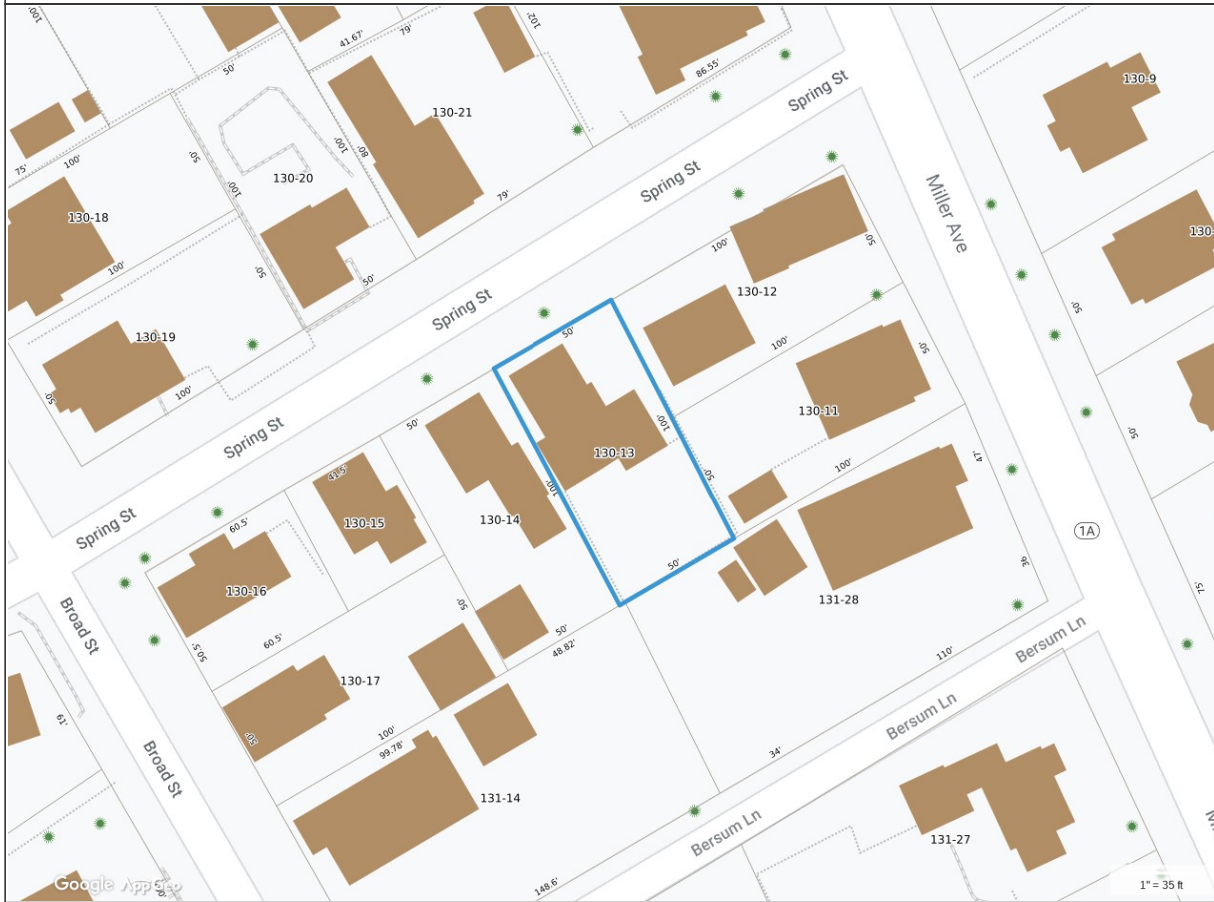


*This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.*



Portsmouth, New Hampshire  
 2019  
**Tax Map 130**





**Property Information**  
**Property ID** 0130-0013-0000  
**Location** 30 SPRING ST  
**Owner** KAISER JESSICA D



**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

1" = 35 ft

30 Spring Street - Exterior Photos.





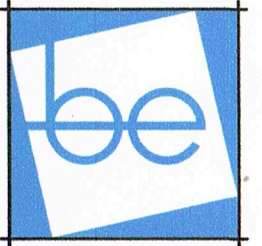






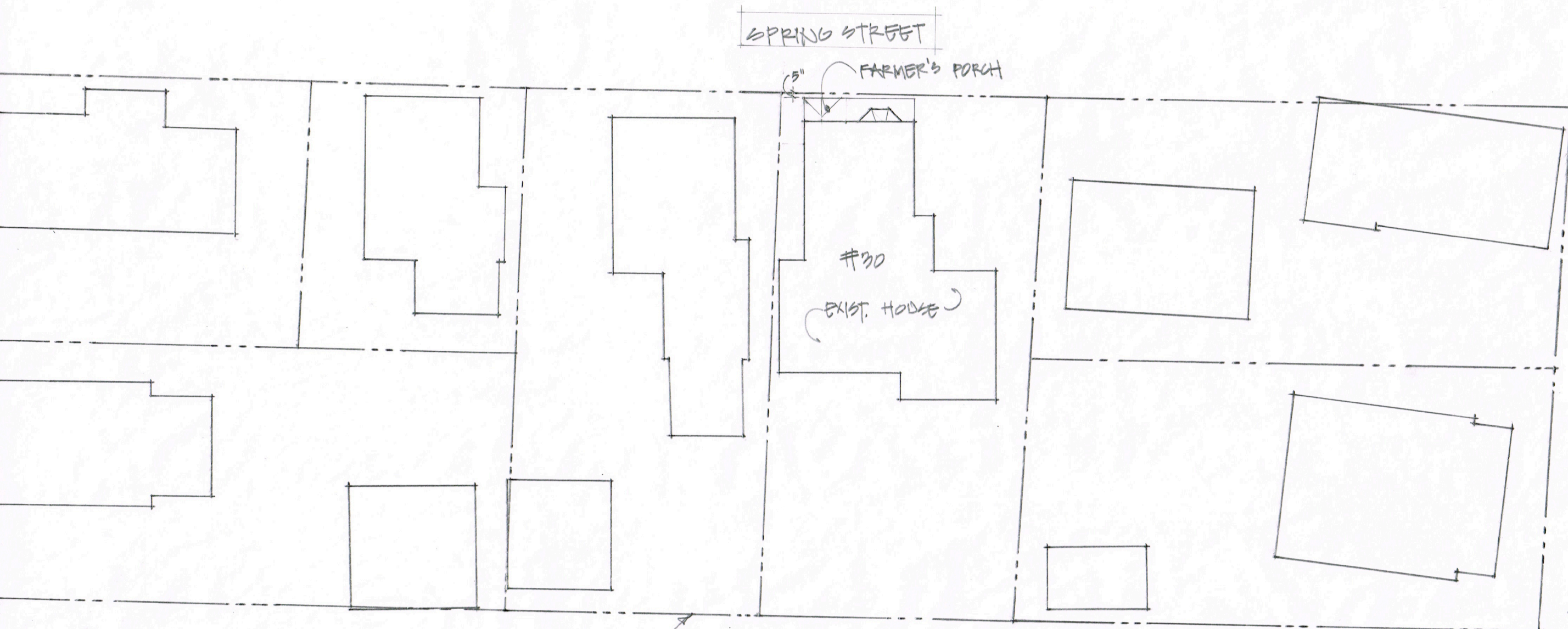


Here is a porch located 3 houses down from my house, on the corner of Spring St. and Lincoln St, that was approved for development in 2017. This porch is located closer to the road than the one we are proposing.



studioB-E  
ARCHITECTURE

10 Ox Point Drive  
Kittery, ME 03904  
207.752.1371  
studioB-E@Comcast.net



# Kaiser Residence

30 Spring Street  
Portsmouth, NH

SITE  
PLAN

NOTE:  
MEASUREMENTS  
WERE TAKEN BY  
HANDHELD TAPE  
MEASURE NOT  
SURVEYORS  
INSTRUMENTS

1 SITE PLAN  
1" = 20'

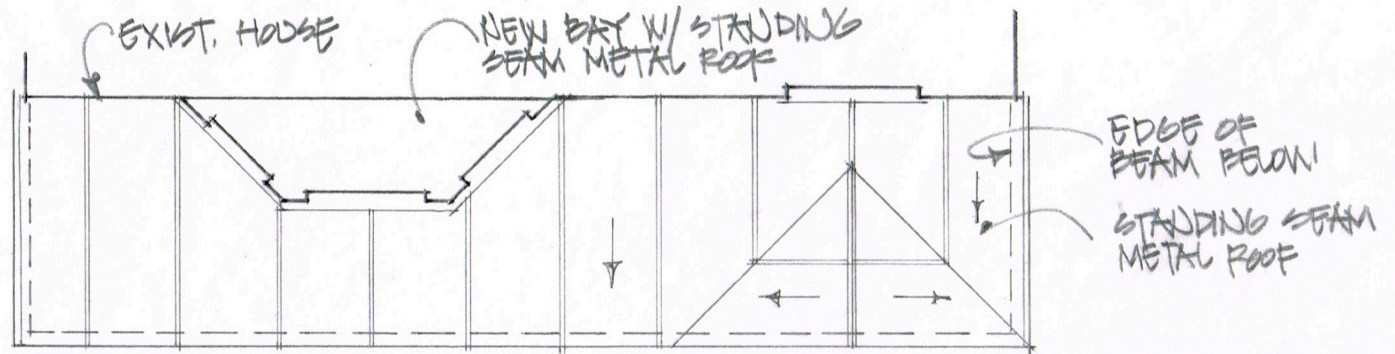
So.o1  
02.15.2021



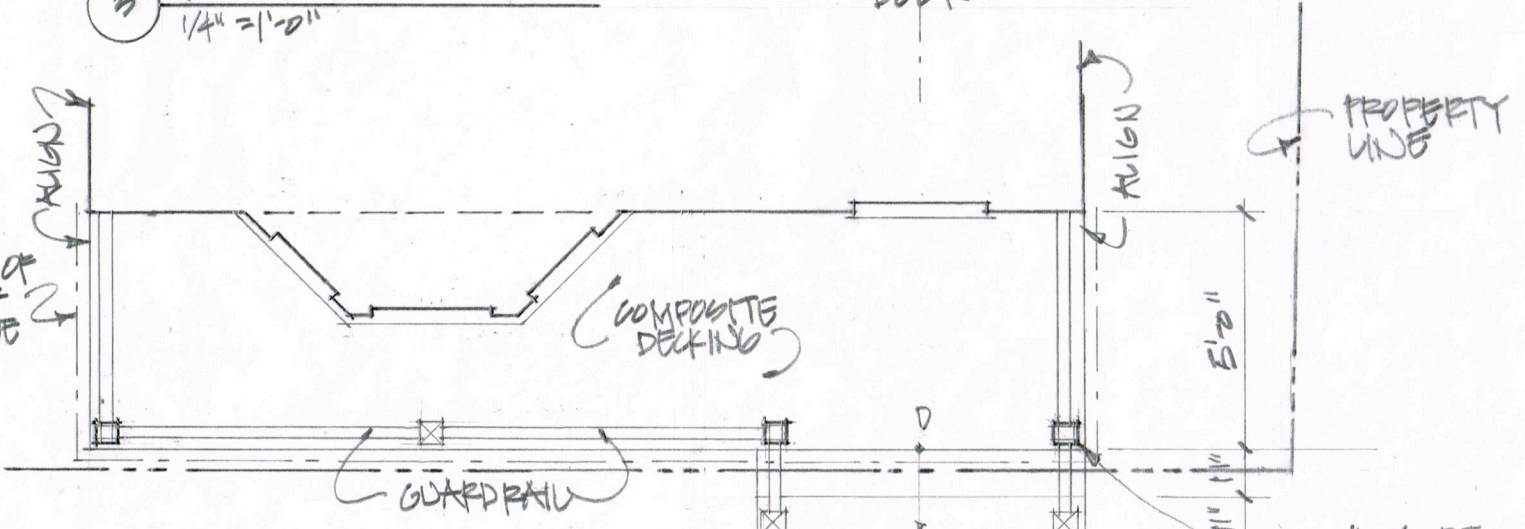


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ARCHITECTURE

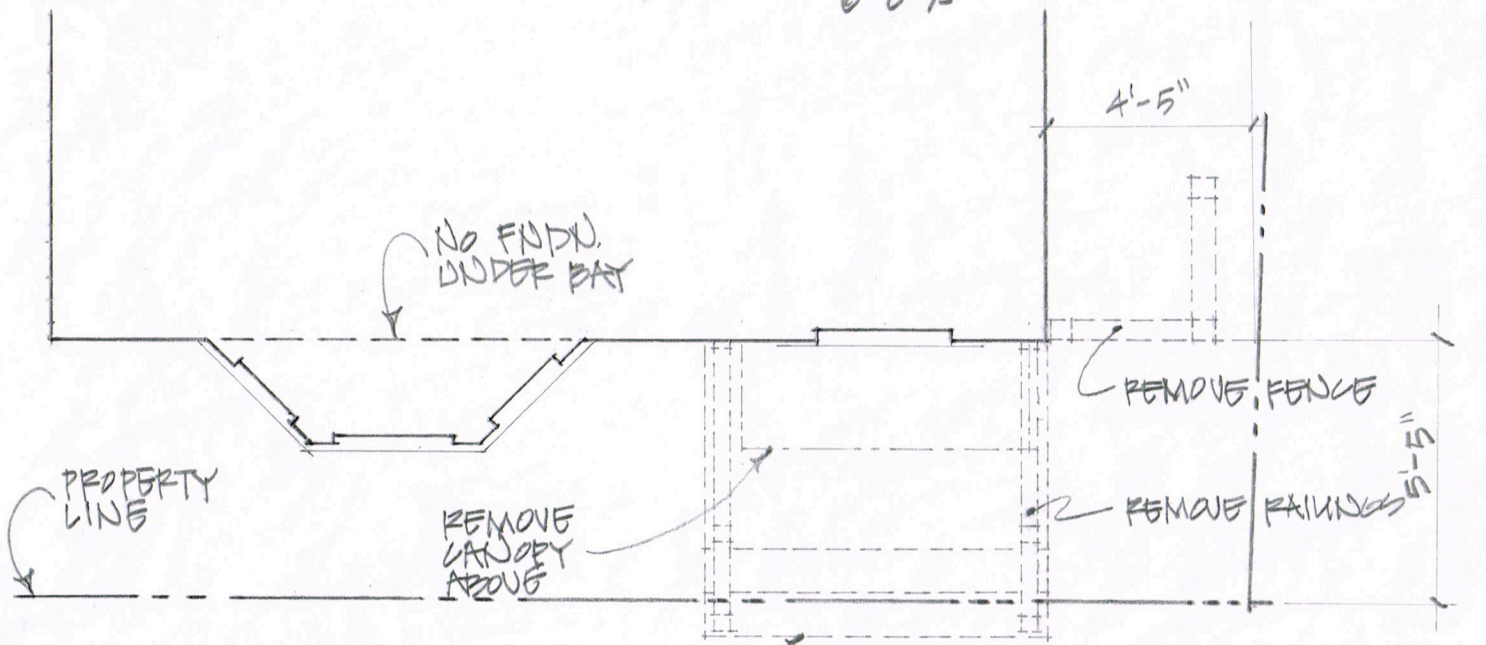
10 Ox Point Drive  
Kittery, ME 03904  
207.752.1371  
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3 ROOF PLAN  
1/4" = 1'-0"



2 PORCH PLAN  
1/4" = 1'-0"



1 DEMOLITION PLAN  
1/4" = 1'-0"

# Kaiser Residence

30 Spring Street  
Portsmouth, NH

DEMOLITION,  
PORCH & ROOF  
PLANS

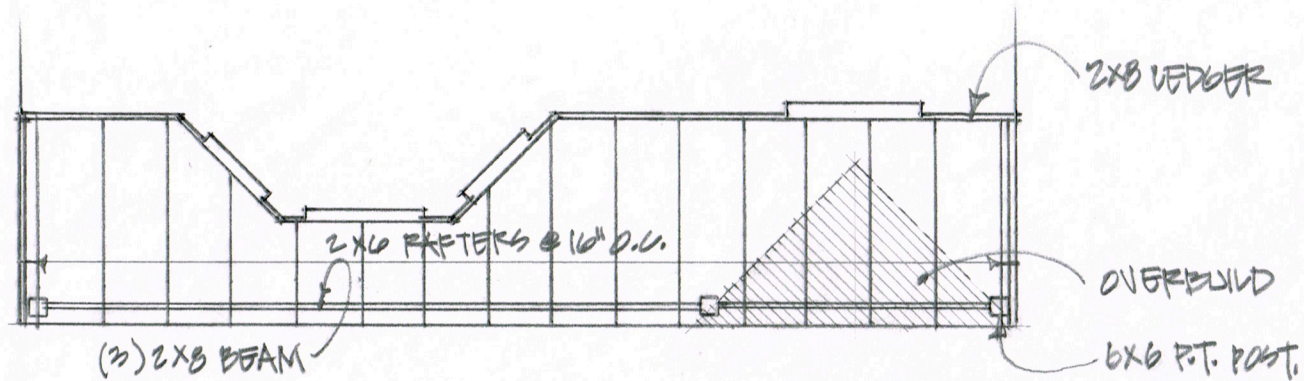
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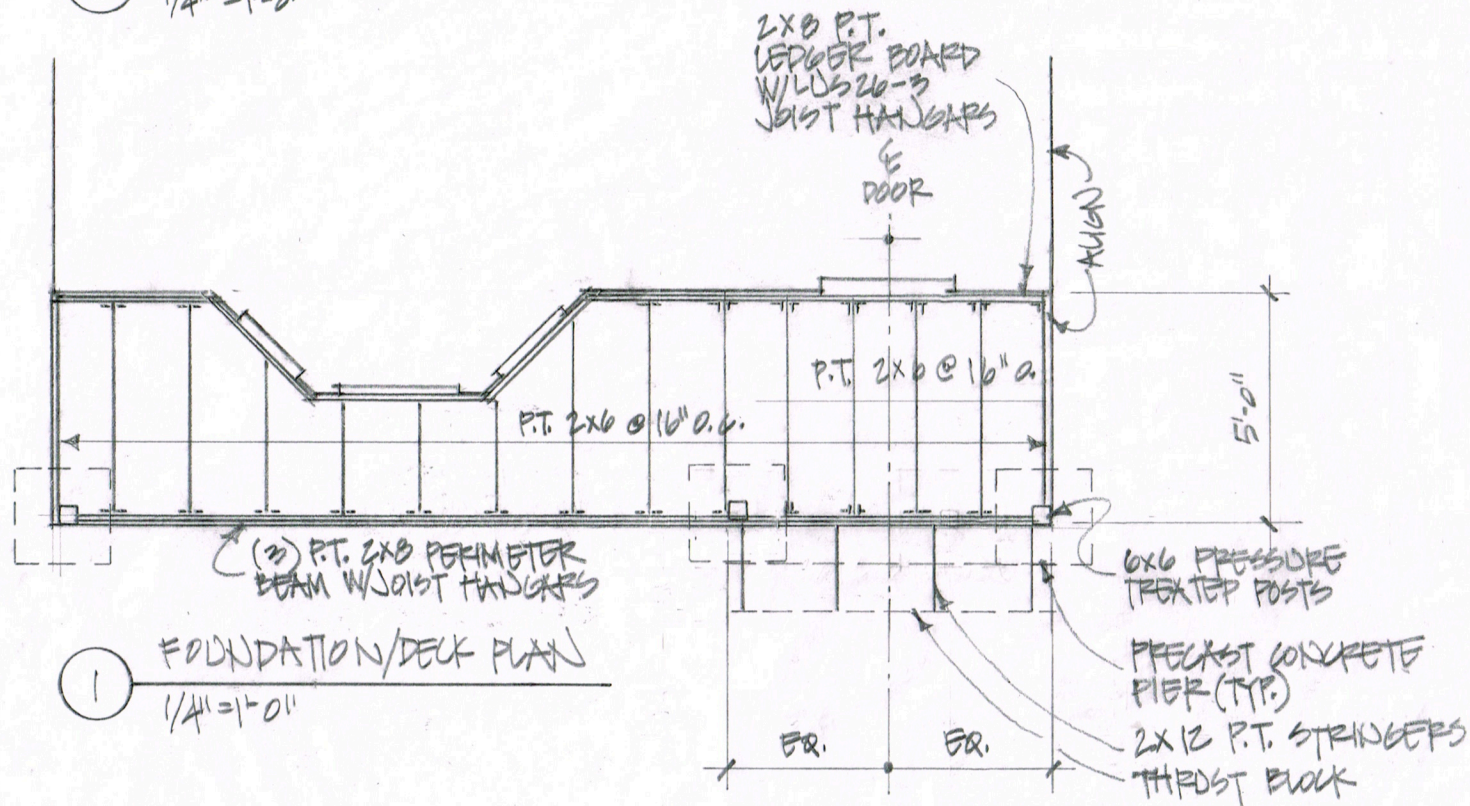


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2 ROOF FRAMING PLAN  
1/4" = 1'-0"



1 FOUNDATION/DECK PLAN  
1/4" = 1'-0"

# Kaiser Residence

30 Spring Street  
Portsmouth, NH

FOUNDATIONS  
FRAMING  
PLANS

# S1.01

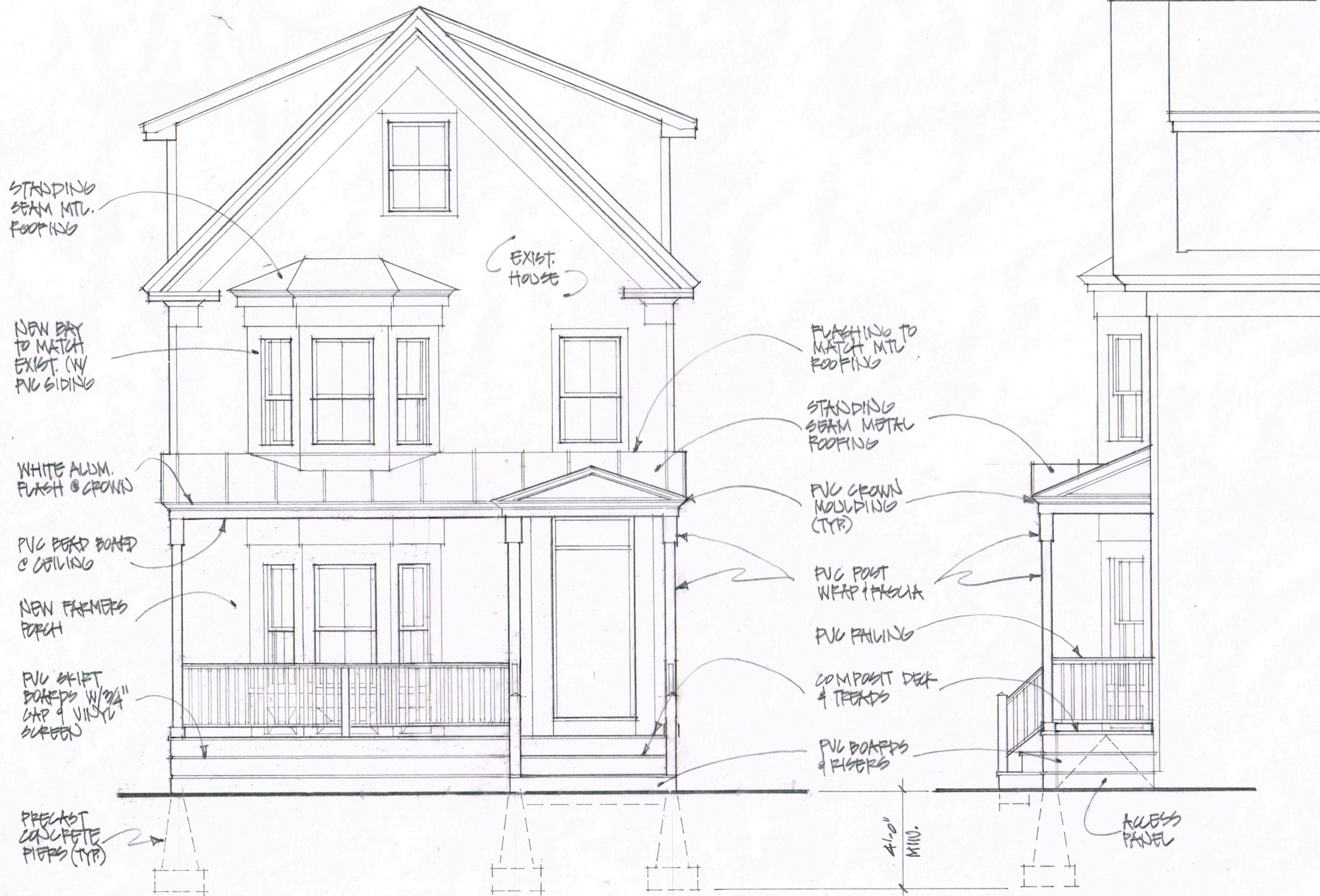
02.15.2021





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STANDING SEAM MTL. ROOFING

NEW BAY TO MATCH EXIST. (W/ PVC SIDING)

WHITE ALUM. FLASH @ CROWN

PVC BOARD BOARD & CEILING

NEW FARMERS PORCH

PVC SKIRT BOARDS W/ 3/4" GAP & VINYL SCREEN

PRECAST CONCRETE PIERS (TYP)

EXIST. HOUSE

FLASHING TO MATCH MTL. ROOFING

STANDING SEAM METAL ROOFING

PVC CROWN MOULDING (TYP.)

PVC POST WRAP & TRAILIA

PVC RAILING

COMPOST DECK & TREADS

PVC BOARDS & RISERS

ACCESS PANEL

4'-0" MIN.

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

2 SIDE ELEVATION  
1/4" = 1'-0"

# Kaiser Residence

30 Spring Street  
Portsmouth, NH

ELEVATION

# A2.01

02.15.2021