

**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 dormers and a covered porch to the dwelling.

As a result of the pandemic, the applicants are working from home and need the additional space the dormers will provide for a home office. The 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 children when they play with their friends on Spring Street.

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 applicants propose to add a dormer addition on either side of the roofline within the existing footprint, which will fall within the 10 foot right side yard setback and the 15 foot front yard setback. In addition, the applicants propose to replace the existing stairs and landing leading to the front door with a covered porch which wraps around the right side of the house. The proposed porch would also fall within the 15 foot front yard setback and the 10 foot right side yard setback.

The proposed dormers will be approximately 7.4 feet from the front property line and approximately 4.4 feet from the right side property line, entirely within the existing footprint.

The proposed covered porch will be 5" from the front property line and 3" 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 80 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 3" where 10 is required, and building coverage of 28.4 % 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 dormers are 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 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 match the existing front bay window. 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 between properties. None of these purposes are frustrated by this proposal. The dormers will be entirely within the existing footprint and will not negatively affect the neighboring property on the right side of the lot. 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 significantly more than the existing dwelling. The amount of additional building coverage proposed, 80 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: 10/27/2020

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

# SPRING STREET

(PUBLIC RIGHT OF WAY)

EDGE OF PAVEMENT

GRAVEL AREA

SET IRON ROD WITH CAP 12/03/03

BRICK WALK  
6.1'  
N75°03'00"E  
50.00'

PICKET FENCE

GAS METER

15' FRONT YARD SETBACK

EXISTING 2 1/2 STORY WOOD FRAMED BUILDING

EXISTING BUILDING

DECK

10' SIDE YARD SETBACK

S11°10'31"E  
50.00'

MAP 130 LOT 12

N\F  
MALINDA R. LAWRENCE  
290 MILLER AVENUE  
PORTSMOUTH, NH 03801  
RCRD BK.#3912 PG.#2480

EXISTING GARAGE

FOUND IRON ROD 11/03/03

MAP 130 LOT 14

N\F  
GEORGE R. SHEVELIN  
36 SPRING STREET  
PORTSMOUTH, NH 03801  
RCRD BK.#1445 PG.#415

MAP 130 LOT 1

N\F  
DAVID J. & CATHE  
302 MILLER  
PORTSMOUTH, NH  
RCRD BK.#3262

STOCKADE FENCE

S13°20'31"E  
50.13'

MAP 130 LOT 13  
4,953 S.F.  
0.11 ACRES

20' REAR YARD SETBACK

CHAINLINK FENCE

SET IRON ROD WITH CAP 12/03/03

TWIN 12" MAPLE

STOCKADE FENCE

EXISTING GARAGE

S75°03'00"W  
50.00'

SET RAILROAD SPIKE IN ROOT OF MAPLE 12/03/03  
TWIN 18" MAPLE

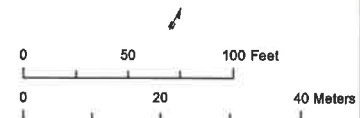
MAP 131 LOT 28

N\F  
HELEN WINEBAUM  
C/O GENE FISK & ASSOCIATES  
LLC  
4 GREENLEAF WOODS DRIVE  
SUITE #102  
PORTSMOUTH, NH 03801  
RCRD BK.#2580 PG.#1122

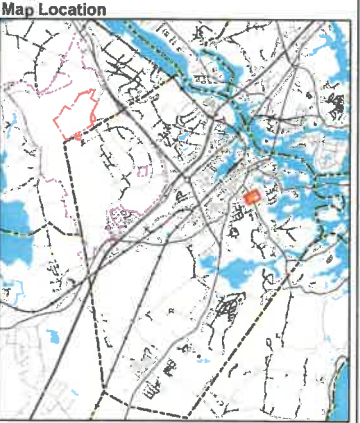
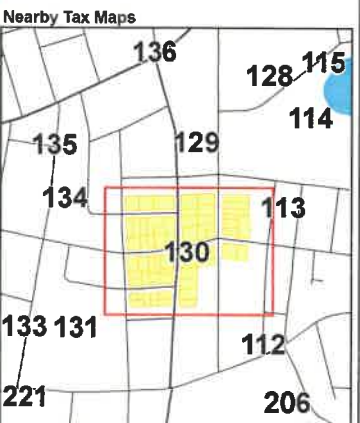




- Partial Legend**  
See the cover sheet for the complete legend.
- 7-5A** Lot or lot-unit number  
2.56 ac Parcel area in acres (ac) or square feet (sf)  
25 Address number  
233-137 Parcel number from a neighboring map  
66' Parcel line dimension
- SIMS AVE** Street name
- Parcel/Parcel boundary
  - 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**

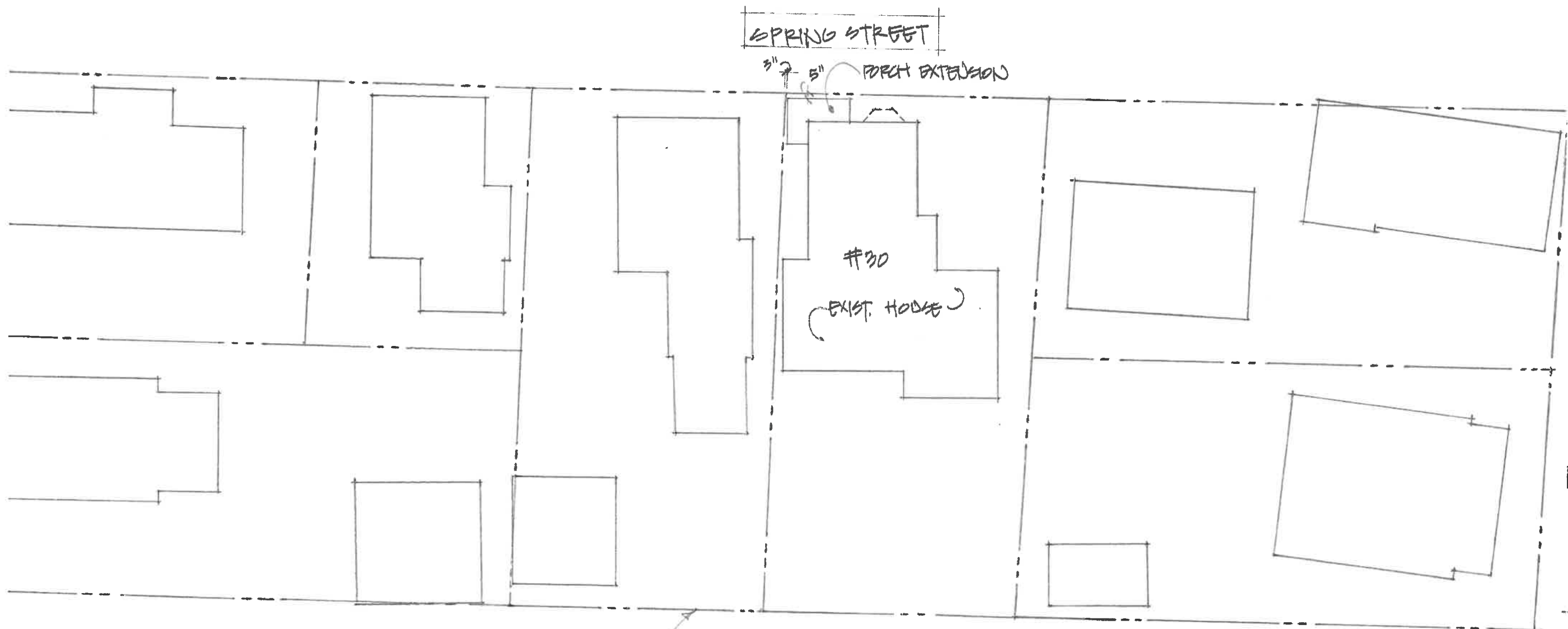






studioB-E  
ARCHITECTURE

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



**Kaiser  
Residence**

30 Spring Street  
Portsmouth, NH

SITE  
PLAN

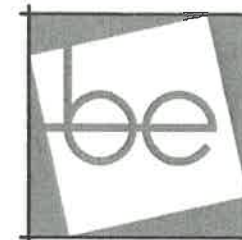
**So.o1**  
10.22.2020

1 SITE PLAN  
1" = 20'

BOUNDARY LINES  
TAKEN FROM CITY  
TAX MAP.

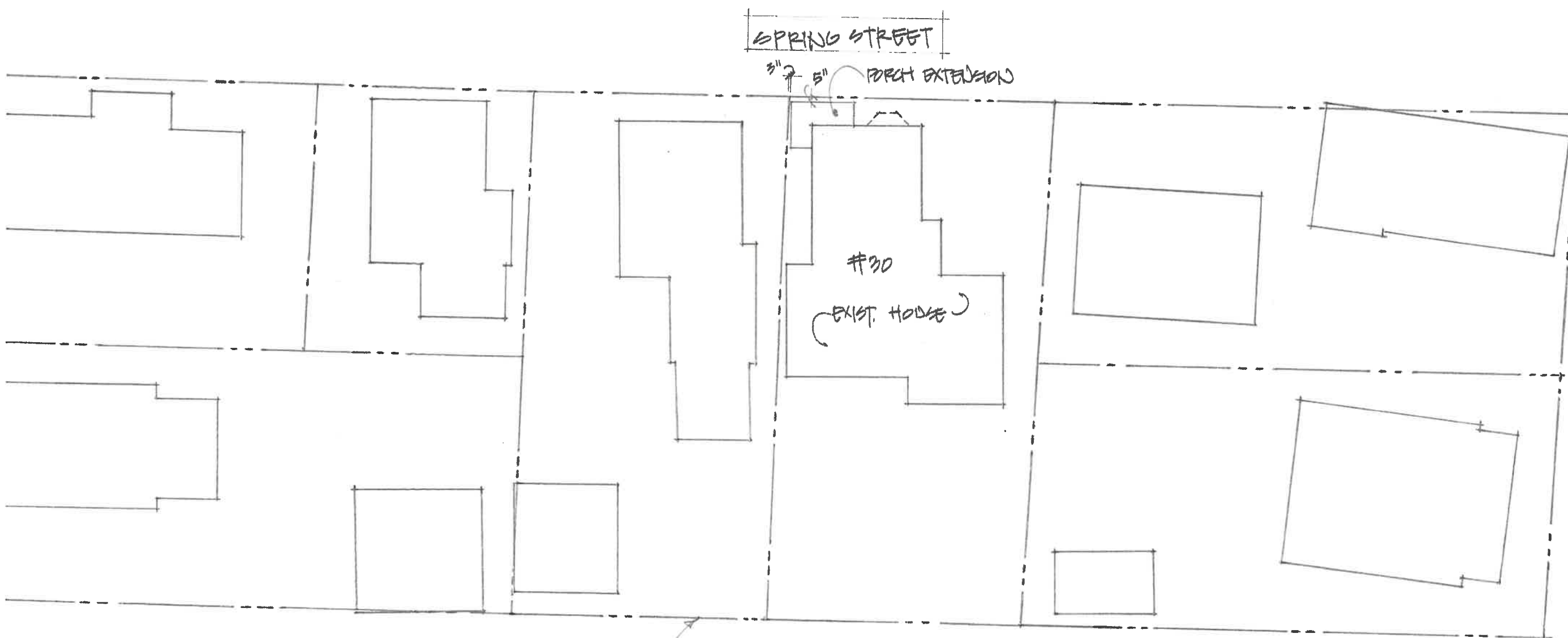
NOTE:  
MEASUREMENTS  
WERE TAKEN W/  
HANDHELD TAPE  
MEASURE NOT  
SURVEYOR'S  
INSTRUMENTS





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BOUNDARY LINES  
TAKEN FROM CITY  
TAX MAP.

NOTE:  
MEASUREMENTS  
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HANDHELD TAPE  
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INSTRUMENTS

## Kaiser Residence

30 Spring Street  
Portsmouth, NH

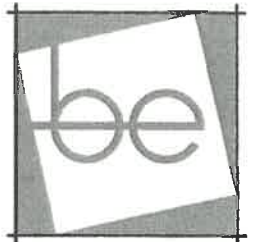
SITE  
PLAN

So.01  
10.22.2020

1

SITE PLAN  
1" = 20'





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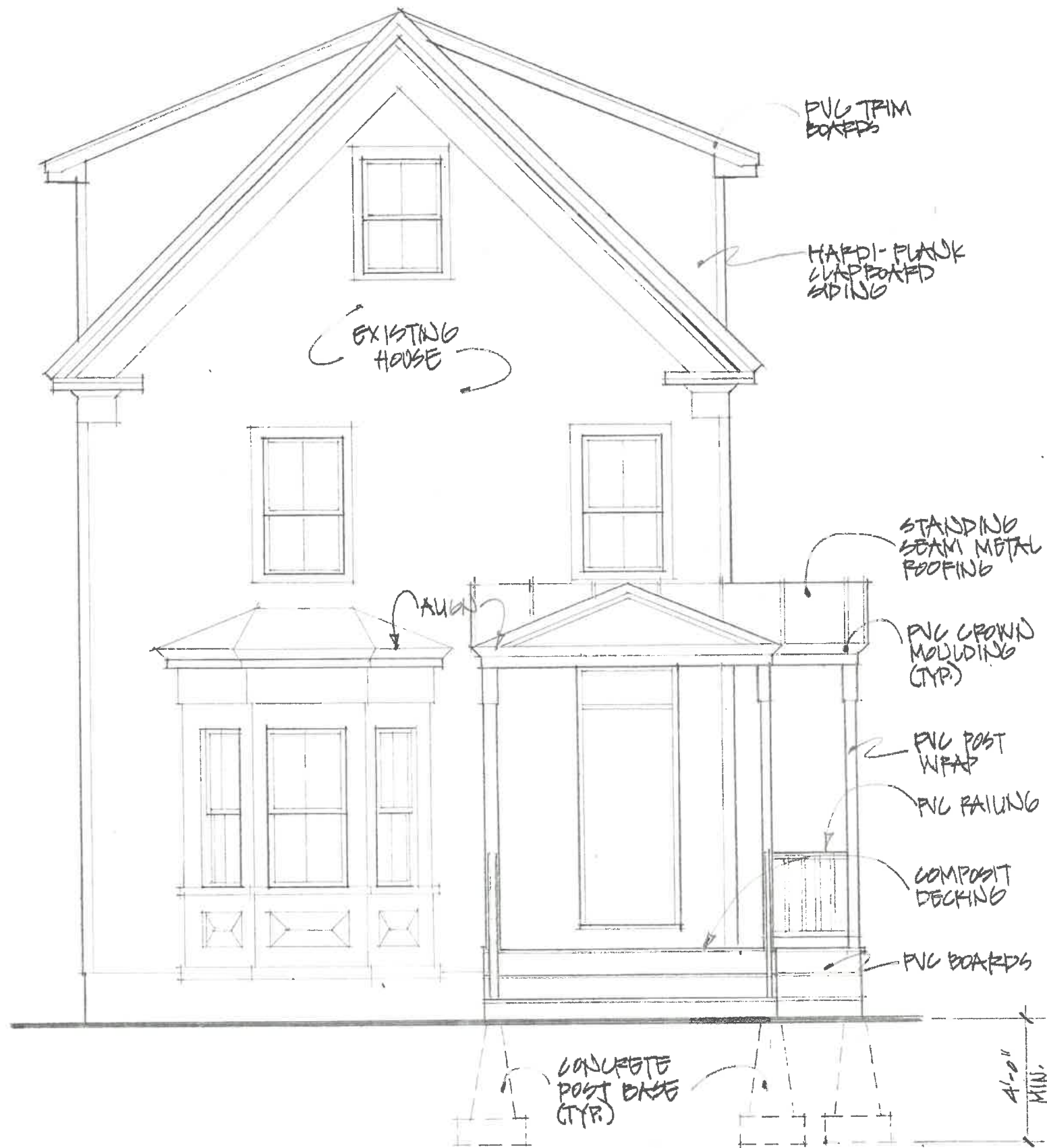
10 Ox Point Drive  
Kittery, ME 03904  
207.752.1371  
studioB-E@Comcast.net

## Kaiser Residence

30 Spring Street  
Portsmouth, NH

ELEVATION

A2.o1  
10.22.2020



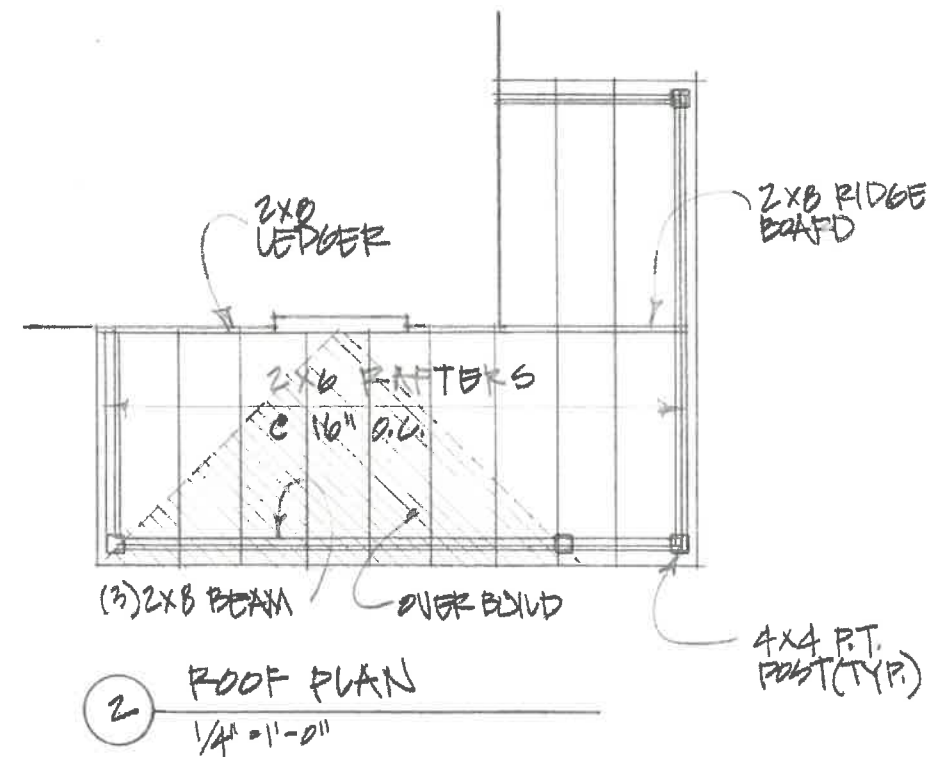
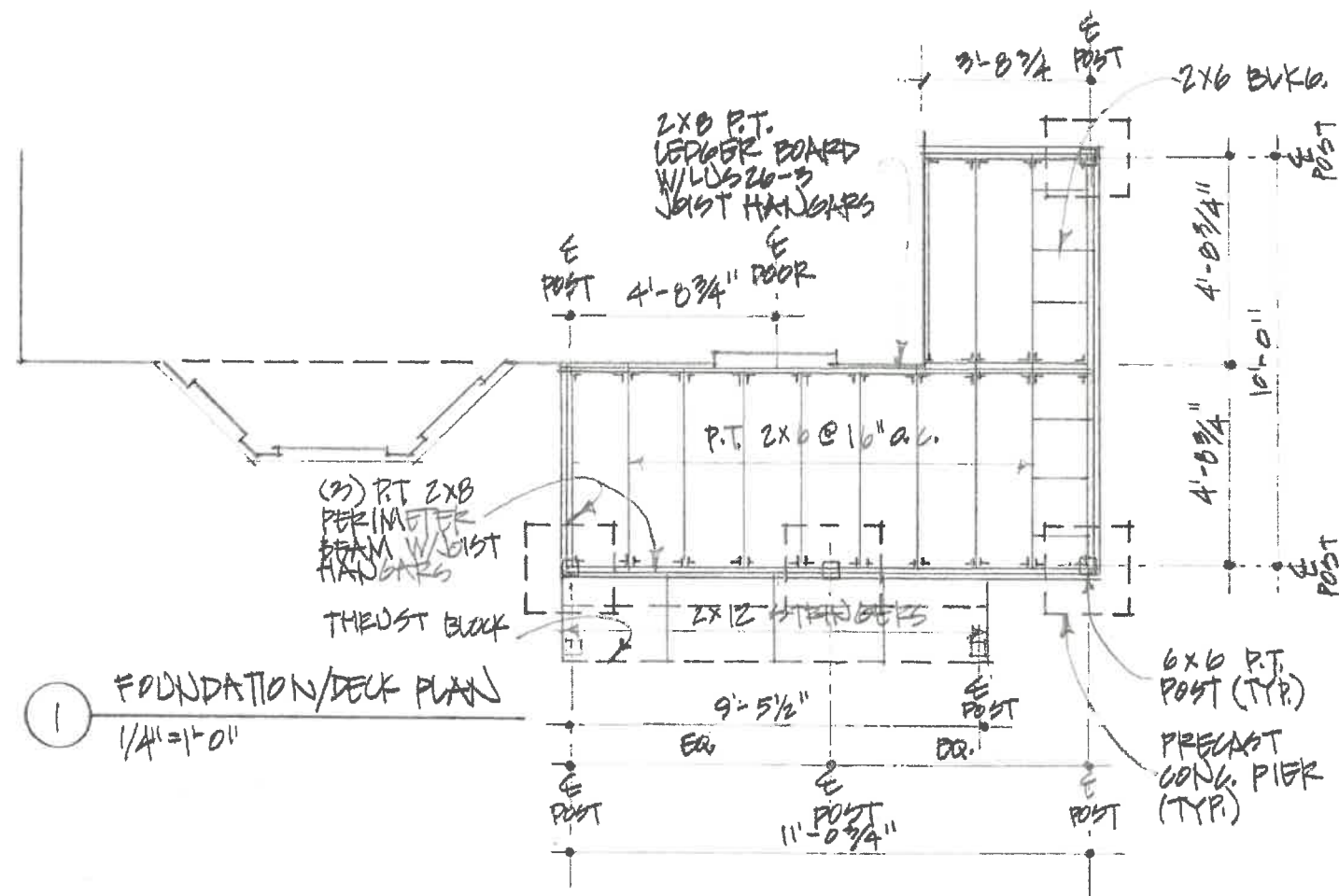
1 FRONT ELEVATION  
1/4" = 1'-0"





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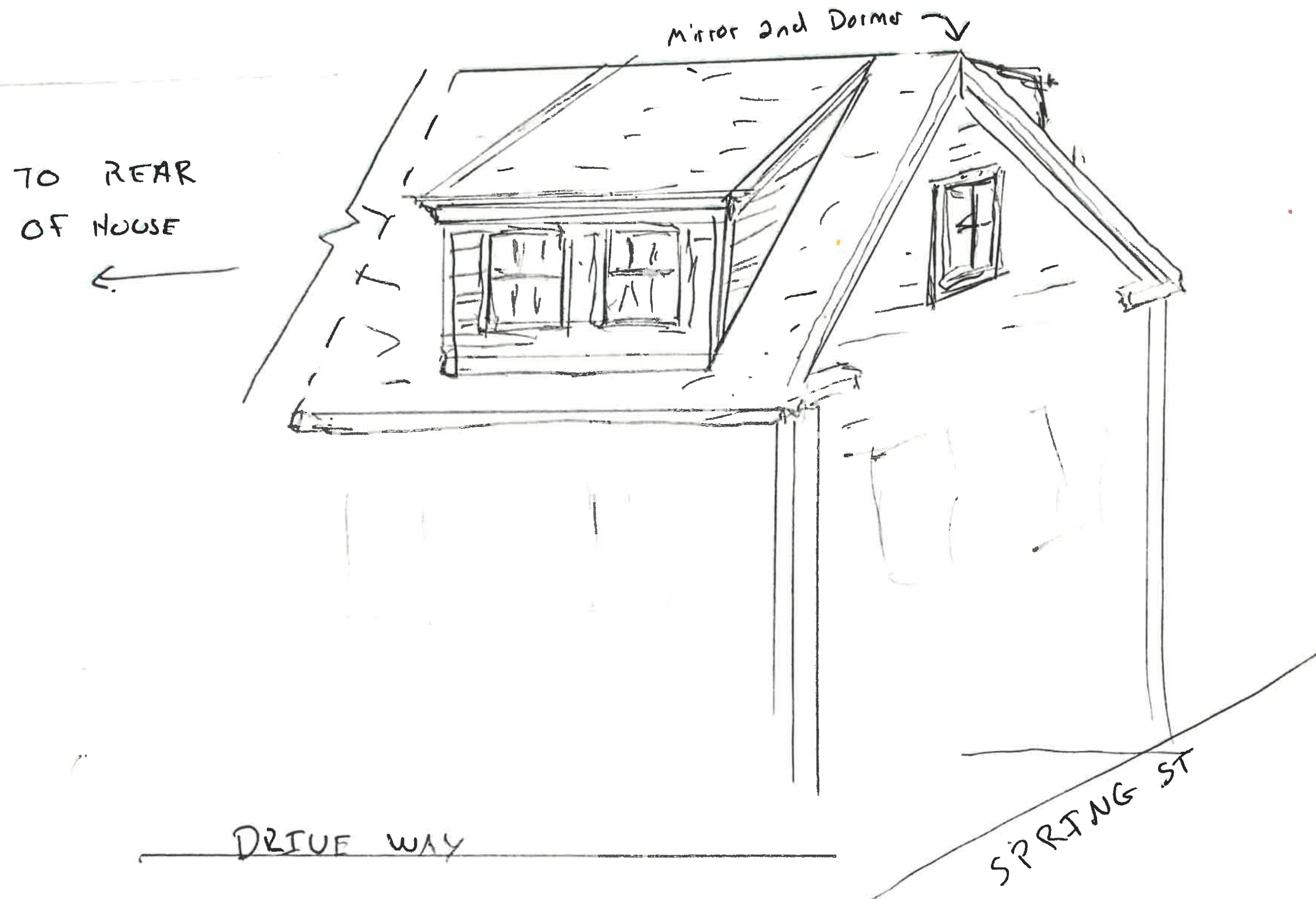
## Kaiser Residence

30 Spring Street  
Portsmouth, NH

FOUNDATION  
FRAMING  
PLANS

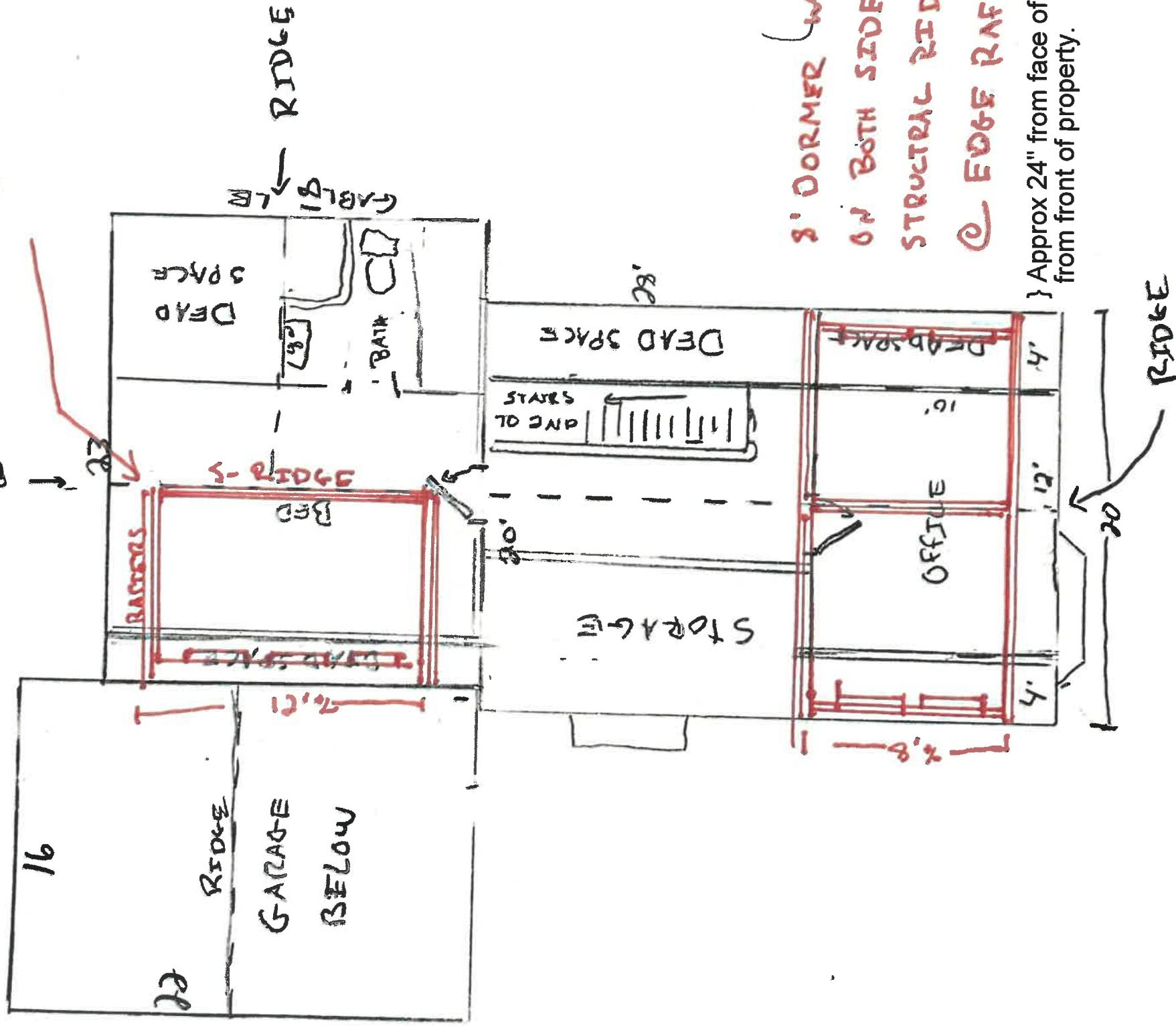
S1.01  
10.22.2020

30 Spring ST Front Gables



# 30 SPRING ST 3RD FLOOR

12' DORMER w/ 3 WINDOWS  
+ STRUCTURAL MATERIAL @ EDGE  
RAFTER



\* RED PURPOSE  
\* PENCIL EXISTING



30 Spring Street - Exterior Photos





The right side of the porch would end just past the existing arborvitae, and would not exceed the width of the back half of the house. .





All neighbors, including my neighbor on the right side, are agreeable to a porch and dormer. The neighbor on my right underwent an extensive expansion / renovation in 2008 which required a variance on both sides of their house.





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.

**BOSEN & ASSOCIATES, P.L.L.C.**  
ATTORNEYS AT LAW

**John K. Bosen**  
Admitted in NH & MA

**Christopher P. Mulligan**  
Admitted in NH & ME

**Molly C. Ferrara**  
Admitted in NH & ME

**Bernard W. Pelech**  
Admitted in NH & ME

November 5, 2020

***VIA HAND DELIVERY***

David Rheume, Chair  
Zoning Board of Adjustment  
1 Junkins Ave.  
Portsmouth, NH 03801

***RE: 30 Spring Street, Portsmouth, New Hampshire  
Tax Map 130, Lot 13  
Jessica Kaiser and John McMahon***

Dear Mr. Rheume:

As a supplement to our variance application relative to the above property, enclosed please find twelve (12) copies of a revised elevation plan showing the proposed porch from the front and right side, as well as a statement in support of the project signed by the affected abutters.

These documents were submitted through Viewpoint On November 5, 2020.

Thank you for your attention.

Very Truly Yours,



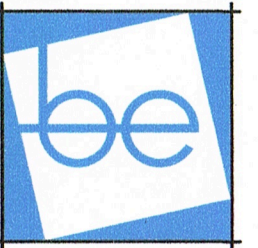
John K. Bosen

JKB/sdm

Enclosures

cc: Jessica Kaiser and John McMahon





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## Kaiser Residence

30 Spring Street  
Portsmouth, NH

ELEVATION

A2.o1

10.22.2020



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

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



## Support of an addition of a front/side porch for 30 Spring Street in Portsmouth

As a resident of Spring Street, I approve of the addition of a small side / front porch and dormers to Jess and Andy's home located at 30 Spring Street.

Signed: <u>Rebecca Rowe</u>	Name <u>Rebecca Rowe</u>	Street # <u>274 Miller</u>	Date <u>11/2/20</u>
Signed: <u>Marc Small</u>	Name <u>Marc Small</u>	Street # <u>274 Miller Ave</u>	Date <u>11/2/20</u>
Signed: <u>Steve Philp</u>	Name <u>Steve Philp</u>	Street # <u>39 Spring</u>	Date <u>11/2/20</u>
Signed: <u>Sheila N Philp</u>	Name <u>Sheila Philp</u>	Street # <u>39 Spring</u>	Date <u>11/2/20</u>
Signed: <u>Christopher Wallace</u>	Name <u>Christopher Wallace</u>	Street # <u>46 Spring</u>	Date <u>11/2/20</u>
Signed: <u>Emily Grady</u>	Name <u>Emily Grady</u>	Street # <u>46 Spring</u>	Date <u>11/2/20</u>
Signed: <u>Dani Rooney</u>	Name <u>Dani Rooney</u>	Street # <u>29 Spring</u>	Date <u>11/2/20</u>
Signed: <u>Tom Rooney</u>	Name <u>Tom Rooney</u>	Street # <u>29 Spring</u>	Date <u>11/2/20</u>
Signed: <u>Jennifer Lantry</u>	Name <u>Jennifer Lantry</u>	Street # <u>30 Spring St.</u>	Date <u>11/5/20</u>
Signed: _____	Name _____	Street # _____	Date _____
Signed: _____	Name _____	Street # _____	Date _____