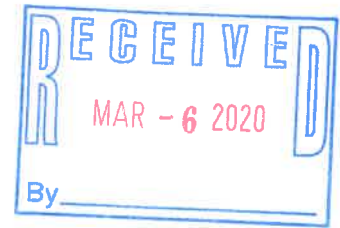


**CITY OF PORTSMOUTH  
ZONING BOARD OF ADJUSTMENT  
APPLICATION NARRATIVE**

John A. Byron, Trustee  
John A. Byron 2009 Revocable Trust  
11 Hannah Lane  
Newington, NH 03801  
(Owner)



Joseph Bezanson and Chelsea Ladd  
87 Union Street, Unit 2  
Portsmouth, NH 03801  
(Applicants)

**INTRODUCTORY STATEMENT**

Joseph Bezanson and Chelsea Ladd (the “Applicants”) are under contract to purchase a vacant land located off of Bartlett Street near its intersection with Thornton Street. The property is identified on Portsmouth Tax Map 162, as Lot 54-1 (the “Property”). The Property is located within the GRA Zoning District.

In 2017, John Byron exercised his right pursuant to RSA 674:39-aa to un-merged the Property from his house lot located at 346 Bartlett Street (Lot 54). The Property had been involuntary merged by the City at some point in the past. After unmerging the Property, Mr. Byron applied for several variances from the Board to construct a single-family home on the Property. Specifically, Mr. Byron applied for variances under Section 10.521 for lot area per dwelling unit of 5,026 sf. where 7,500 sf. is required, continuous street frontage of 53.87’ where 100’ is required, and a right yard setback of 7’ where 10’ is required. The variance relief sought by Mr. Byron was granted by the Board on July 23, 2019.

Ultimately, Mr. Byron sold the neighboring house lot that he owned and decided not to build the proposed home on the Property, opting to list it for sale instead. The proposed home approved for the Property contained 3 bedrooms, 2.5 bathrooms, a 1-vehicle garage, and approximately 1,900 sf. of gross living space. While the exact reason(s) why Mr. Byron did not construct the home approved for the Property are unknown, the Applicants’ research indicates that the design was infeasible to construct in the current market.

The Applicants are proposing to construct a slightly larger home on the Property at a lesser height that would contain 4 bedrooms, 2.5 baths, a 2-vehicle garage, and approximately 2,416 sf. of gross living space. The only additional zoning relief that the Applicants need from the Board from what was previously approved for the Property is a building coverage variance. They are proposing building coverage on the Property of 37% (+/-) where 25% is required by Section 10.520 of the Ordinance. They would also be increasing the right yard setback over what was previously approved by the Board from 7’ to 8.5’ (+/-). Minimal right side yard setback relief is necessary to orient the home on the Property so that it is perpendicular to the street due to the angle of the lot.

The Applicants need a home that contains at least 4 bedrooms, 2+ baths, a home office/workspace and a garage to accommodate the needs of their growing family. The Applicants both work from home, so having adequate live/workspace is critical to their daily lives.

### SUMMARY OF ZONING RELIEF

The Applicants are requesting the following variances from Section 10.521 of the Ordinance (Table of Dimensional Requirements):

- 1) To allow building coverage of 37% (+/-) where 25% is the minimum required; and
- 2) To allow a right yard setback of 8.5' where 10' is the minimum required.

### VARIANCE CRITERIA

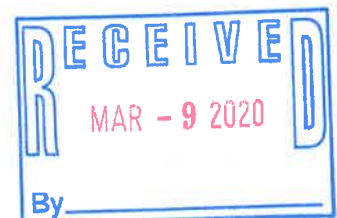
*Granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance.*

“There 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.” *Harborside Assoc v. Parade Residence Hotel*, 162 N.H. 508, 514 (2011).

Most of the immediately surrounding properties on the same and opposite side of Bartlett Street fail to conform to the maximum building coverage requirement and encroach into one or more setbacks. If the Property was conforming as to lot area, the proposed home design would meet the Ordinance’s building coverage requirement. The home design proposed is architecturally consistent with other new construction homes in Portsmouth. It is also designed to meet the criteria that most modern home buyers look for in terms of the number of bedrooms, bathrooms and live/workspace. It is commonplace now for people to work from home, which creates a different set of needs what existed when most other homes on Bartlett Street were constructed.

The light, air and space with abutting properties will not be negatively impacted. The right yard setback relief being sought represents less of impact than what the Board previously approved (7’) for the Property. The right yard setback relief is necessary to orient the home so that it is perpendicular with the street and consistent with other homes on the same side of Bartlett Street.

There is certainly no evidence to suggest that granting the variance relief would threaten the public health, safety or welfare. Based on the foregoing considerations, granting the variance relief would not alter the essential character of the neighborhood or be contrary to the public interest.



***Substantial justice will be done by granting the variance relief.***

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).

The costs to acquire the Property make it financially infeasible to construct a home that would not require zoning relief. The proposed home is designed to accommodate the needs of the Applicants, and for that matter, most other prospective buyers that have children and work from home. With such a limited available housing supply in Portsmouth, it is difficult for most growing families to find a home that can accommodate their needs. There would be no objective gain to the general public in the present instance that would outweigh the loss that the Applicants would suffer by denying the relief sought.

***The values of surrounding properties will not be diminished by granting the variance relief.***

The values of surrounding properties will be preserved or enhanced by the construction of the proposed home. The façade will be consistent with other newer or remodeled “New Englander” styles homes in the area. There is an abundance of precedence of similarly designed homes on small lots throughout Portsmouth that demonstrates that surrounding property values will not be diminished.

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

The Property is a pre-existing substandard lot of record that was recently unmerged. It is unique in the context of the area, as it is one of the last developable properties. While the Property can theoretically be developed in strict compliance with the Ordinance, it is unrealistic given the narrowness, angle and relatively small size of the lot. These factors also make it financially infeasible, given current acquisition and construction costs, to develop a structure in compliance with the Ordinance. As a result, there is no fair and substantial relationship between the Ordinance provisions and their application to the Property.

***The proposed use is reasonable.***

The Property would be used for single-family residential purposes, which is permitted by right and consistent with spirit of GRA Zoning. Accordingly, the proposed use is reasonable.

## CONCLUSION

In conclusion, the Applicants have demonstrated that it has satisfied the five (5) criteria for granting each of the variances associated with the applications for the Property. The Applicants respectfully request that the Board approve the variance relief sought.

Respectfully Submitted,

Dated: March 6, 2020

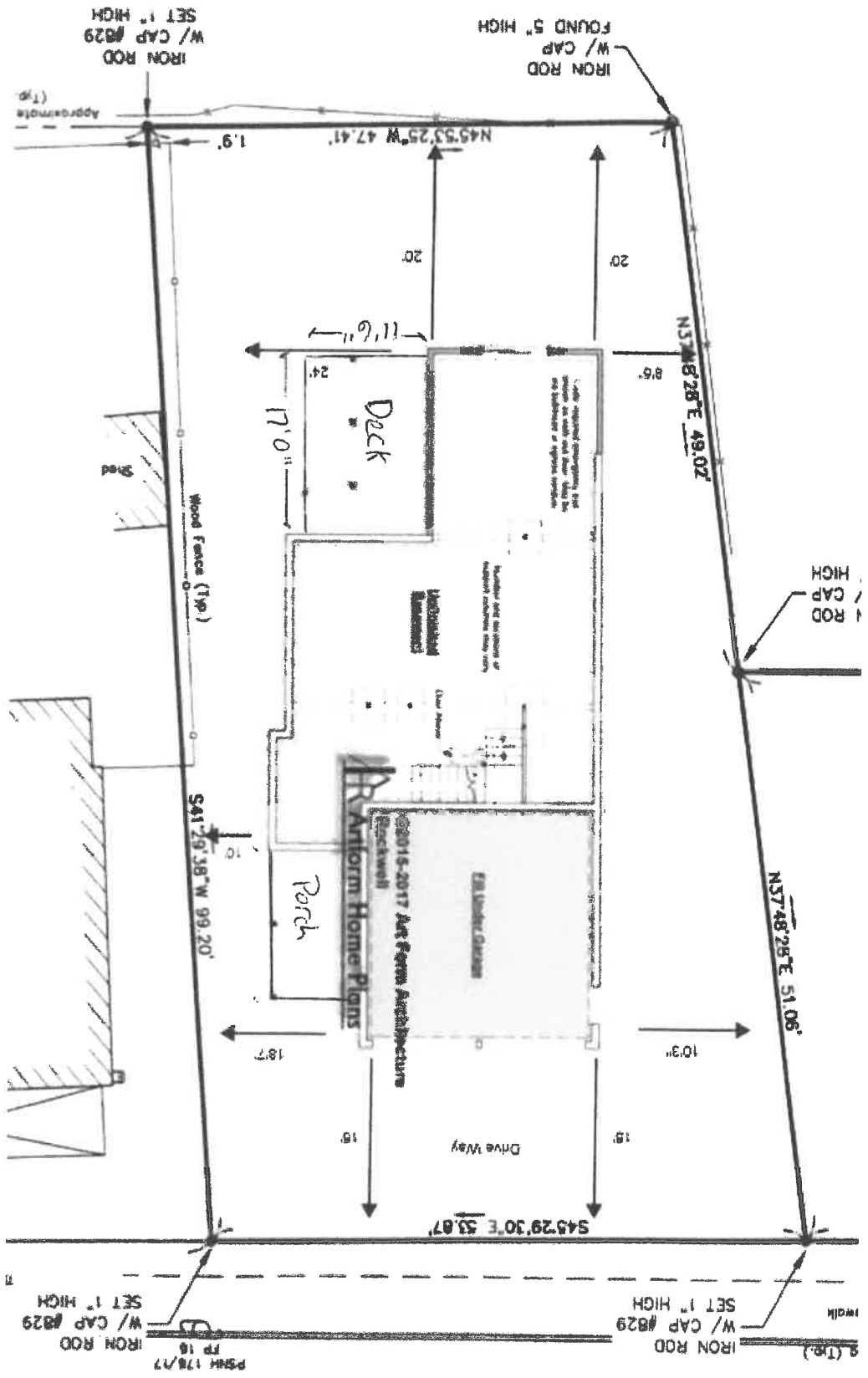
Joseph Bezanson and Chelsea Ladd

By and Through Their Attorneys,

Durbin Law Offices PLLC



By: Derek R. Durbin, Esq.  
144 Washington Street  
Portsmouth, NH 03801  
(603)-287-4764  
derek@durbinlawoffices.com





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	Main	Future	Apt	Main + Future	Main + Apt	All
<b>Living Area</b>	2416 SF	0 SF	0 SF	2416 SF	2416 SF	2416 SF
<b>Bedrooms</b>	4	1	0	5	4	5
<b>Baths</b>	2.5	0.0	0.0	2.5	2.5	2.5

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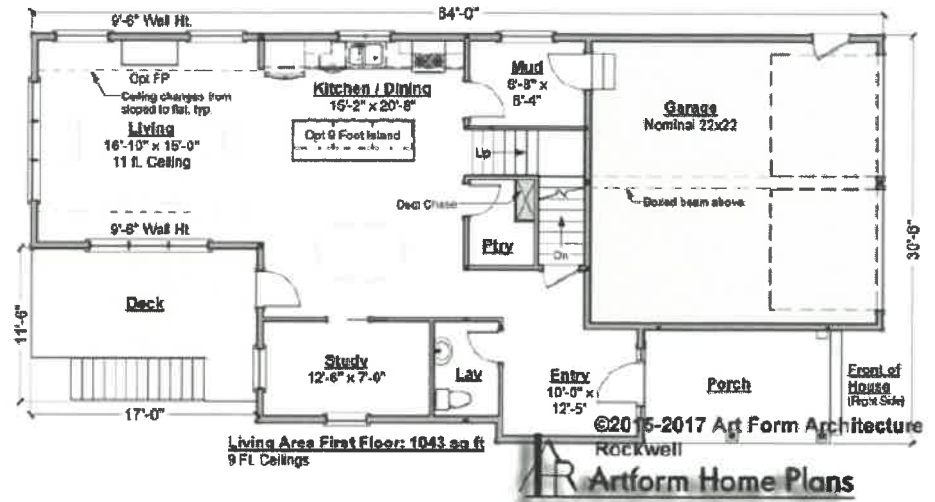
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# 760.124 Rockwell

## First Floor

	Area	Beds	Baths
Main	1043 SF	0	0.5
Future	0 SF	1	0
Apt	0 SF	0	0
<b>Total</b>	<b>1043 SF</b>	<b>1</b>	<b>0.5</b>
<b>Ceiling Height</b>			
Shown	9'-0"		
Possible*	8'-0"		

\* See Major Change information on plan page for cost



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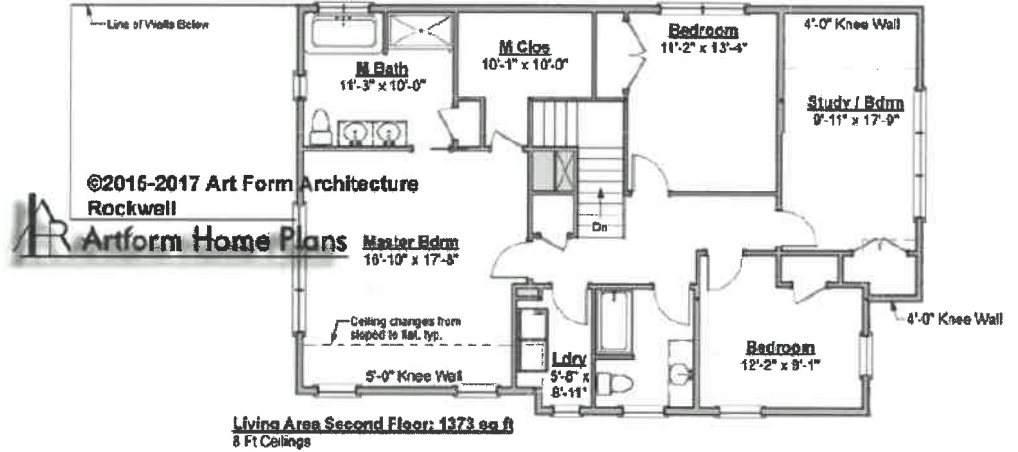
**Second Floor**

	Area	Beds	Baths
<b>Main</b>	1373 SF	4	2
<b>Future</b>	0 SF	0	0
<b>Apt</b>	0 SF	0	0
<b>Total</b>	<b>1373 SF</b>	<b>4</b>	<b>2</b>

Ceiling Height	
<b>Shown</b>	8'-0"
<b>Possible*</b>	8'-0"

\* See Major Change information on plan page for cost



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**Basement Floor**

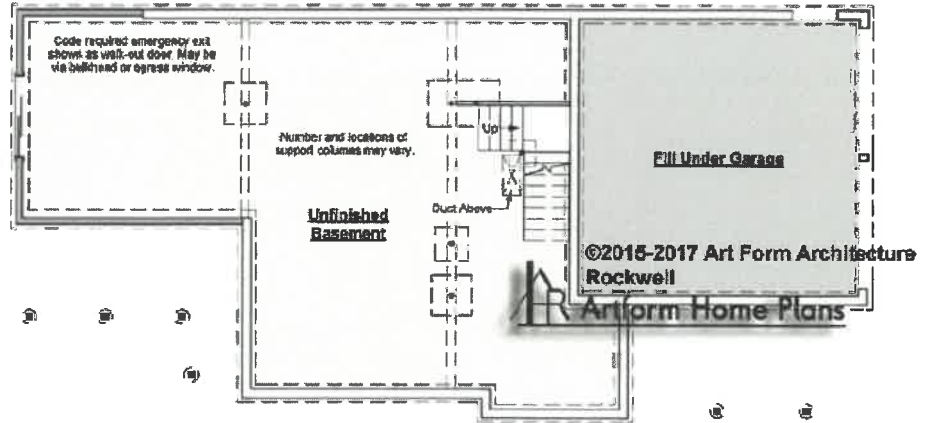
	Area	Beds	Baths
Main	0 SF	0	0
Future	0 SF	0	0
Apt	0 SF	0	0
<b>Total</b>	<b>0 SF</b>	<b>0</b>	<b>0</b>

**Celling Height**

**Shown** 7'-8"

**Possible\*** 9'-0"

\* See Major Change information on plan page for cost



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## Front Elevation



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## Right Elevation



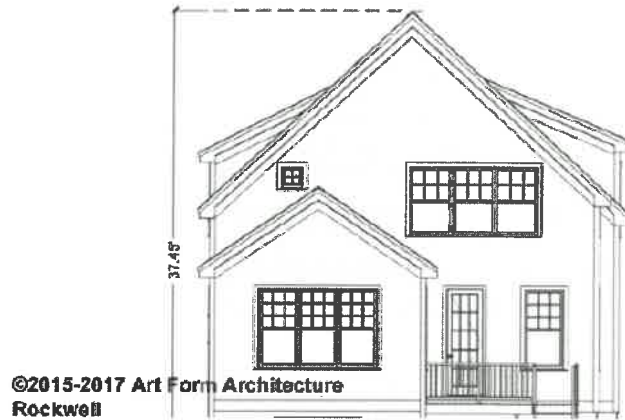
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**Rear Elevation**



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## Left Elevation



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