

## STATEMENT OF AUTHORIZATION

The undersigned, Ryan Smith owner of property at 7 Laurel Court, Portsmouth, NH, does hereby authorize Bernard W. Pelech, and Bosen and Associates as attorneys, to prepare and file any and all applications for the City of Portsmouth Zoning Board of Adjustment and them to represent my interests before the Zoning Board for the City of Portsmouth with regard to the property located on Laurel Court.

Dated: January 29, 2019

  
\_\_\_\_\_  
Ryan Smith

**APPLICATION OF RYAN SMITH AND JENNIFER SMITH**  
**7 LAUREL COURT, PORTSMOUTH**  
**Map 212, Lot 191**



**APPLICANTS' NARRATIVE**

The Applicants, Ryan and Jennifer Smith, are seeking an equitable waiver of dimensional requirement for their home located at 7 Laurel Court in Portsmouth.

Specifically, the existing structure, built by Sandy Brook Corporation and Chinburg Builders in 2013, has a rear yard setback of 22.3 feet for the existing enclosure for the second story deck; and a 24.7 foot rear yard for the existing bulkhead, both of which violate the 25 foot rear yard setback requirement.

The front porch setback of 4.4 feet does not meet the requirement of a 5 foot front yard setback, and the existing front steps are also located with the front yard setback.

All of the above cited encroachments into the setbacks existed when the applicants purchased their home in 2013.

The setback encroachments were not discovered until this year when a mortgage plot plan was done for a prospective purchaser of the applicant's home.

The applicants meet the requirements for the granting of equitable waiver of dimensional requirement as set forth in NH RSA 674:33-a; the requirements are as follows:

(a) The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after the structure had been substantially completed. In this case the structure was built and completed in 2013, however the violation was not discovered until 2019.

(b) That the violation was not the outcome of ignorance of the law of ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, but was instead caused by either a good faith error in measurement or calculation made by an owner. In this case, errors in measurement made by the then owner/builder resulted in the encroachments into the setbacks.

Building permits were issued based upon submitted plans, and an occupancy certificate issued once the home was completed, prior to the purchase by the applicants.

(c) The minor encroachments (.6 feet into the front yard; .3 feet and 1.8 feet into the rear yard) do not constitute a public or private nuisance, nor do they diminish the value of other properties in the area.

(d) That due to the degree of past construction or investment made by the applicants in ignorance of the constituting the violation (purchase price of \$495,000.00) the cost of correction facts outweigh any public benefit to be gained, therefore it would be inequitable to require the Smiths to correct the violation.

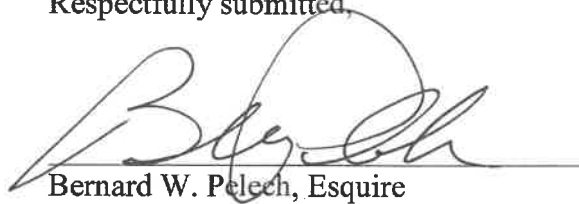
In conclusion, the Applicants respectfully request that an equitable waiver of dimensional requirement be granted by the Board pursuant to NH-RSA 674:33-a.

Respectfully submitted,

Dated:

1/30/19

By:

  
Bernard W. Pelech, Esquire

- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 212 AS LOT 191.
  - 2) OWNERS OF RECORD:  
 RYAN P. SMITH & JENNIFER L. SMITH  
 7 LAUREL COURT  
 PORTSMOUTH, NH 03801  
 5456/928  
 R.C.R.D. PLAN D-37099 (LOT 19)
  - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259E. EFFECTIVE DATE MAY 17, 2005.
  - 4) EXISTING LOT AREA:  
 6,783 S.F.  
 0.1557 ACRES
  - 5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE B (GRB) ZONING DISTRICT.
  - 6) DIMENSIONAL REQUIREMENTS:  
 MIN. LOT AREA: 5,000 S.F.  
 FRONTAGE: 80 FEET  
 SETBACKS: FRONT 5 FEET  
 SIDE 10 FEET  
 REAR 25 FEET  
 MAXIMUM STRUCTURE HEIGHT: 35 FEET  
 MAXIMUM BUILDING COVERAGE: 30%  
 MINIMUM OPEN SPACE: 25%
  - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING BUILDING LOCATION AND DIMENSIONAL RELATIONSHIP TO THE BOUNDARY LINES ON TAX MAP 212 LOT 191 IN THE CITY OF PORTSMOUTH, FOR THE PURPOSE OF AN APPLICATION FOR EQUITABLE WAIVER.
  - 8) PARCEL IS SUBJECT TO A SLOPE AND DRAINAGE EASEMENT AS SHOWN ON R.C.R.D. PLAN D-37099.



**SMITH RESIDENCE  
 7 LAUREL COURT  
 PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	1/28/19
REVISIONS		



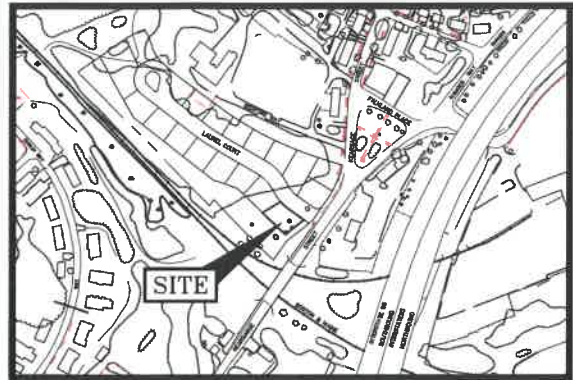
PHOTOGRAPH 1 - 1/28/2019



PHOTOGRAPH 2 - 1/28/2019



PHOTOGRAPH 3 - 1/28/2019



LOCATION MAP SCALE 1"=300'

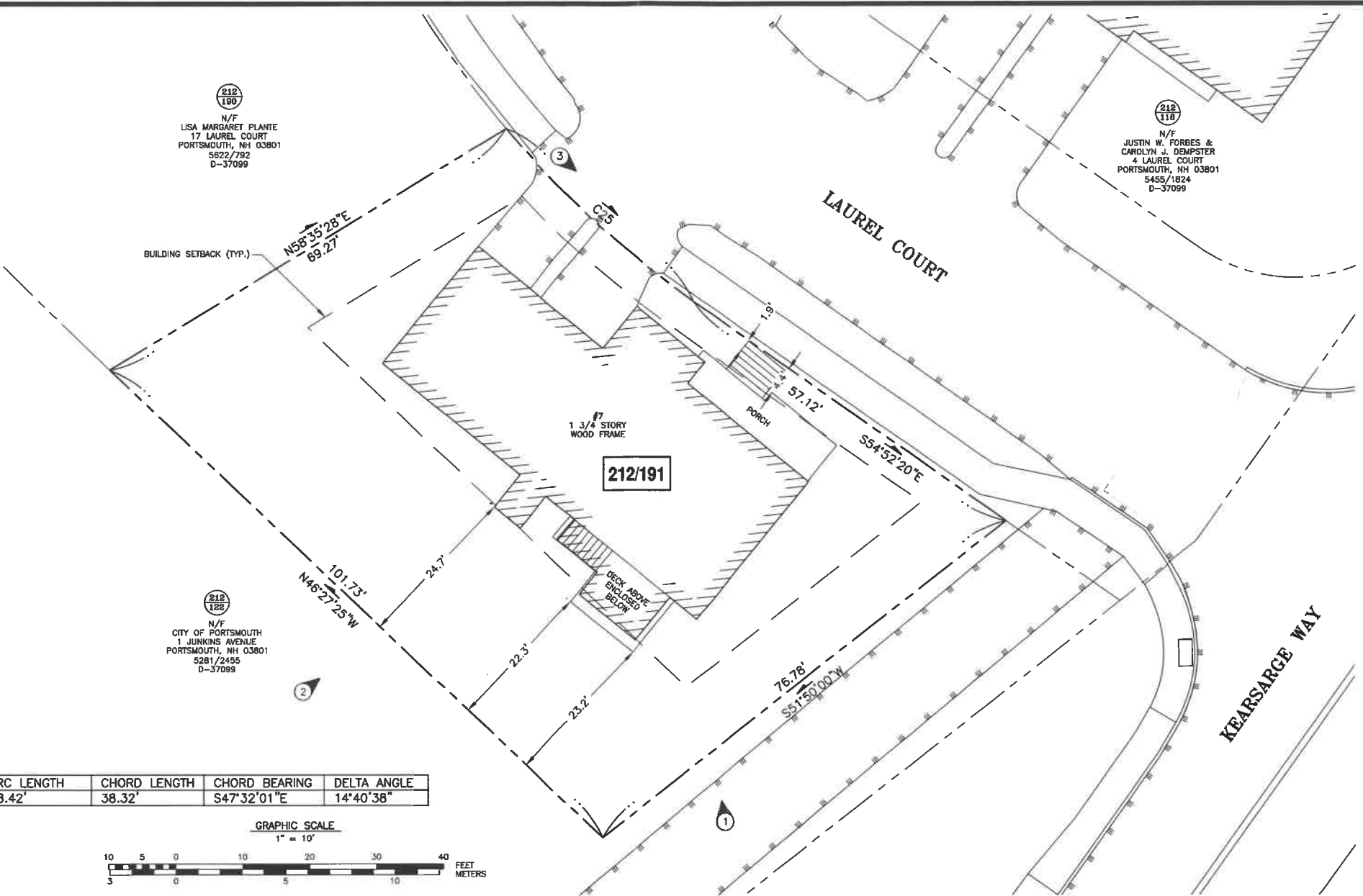
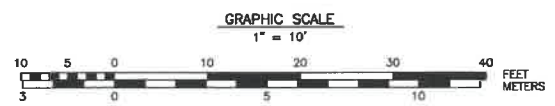
- LEGEND:**
- N/F NOW OR FORMERLY
  - RP RECORD OF PROBATE
  - RCRD ROCKINGHAM COUNTY
  - RR SPK REGISTRY OF DEEDS
  - RR SPIKE RAILROAD SPIKE
  - 11/21 MAP 11/LOT 21
  - IR FND IRON ROD FOUND
  - IP FND IRON PIPE FOUND
  - IR SET IRON ROD SET
  - DH FND DRILL HOLE FOUND
  - DH SET DRILL HOLE SET
  - 1 PHOTO LOCATION AND DIRECTION

**PLAN REFERENCE:**

1) SUBDIVISION PLAN TAX MAP 212 LOTS 118, 119, & 122 LAND FORMERLY OF BONHOMME RICHARD REALTY, LLC NOW PROPERTY OF SANDY BROOK CORPORATION KNOWN AS THE LAUREL COURT SUBDIVISION, OFF KEARSARGE WAY CITY OF PORTSMOUTH COUNTY OF ROCKINGHAM STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2010, FINAL REVISION DATE JULY 11, 2011. R.C.R.D. PLAN D-37099.

**CURVE TABLE**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C25	150.00'	38.42'	38.32'	S47°32'01"E	14°40'38"



"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

John Chagnon  
 JOHN R. CHAGNON, LLS  
 1-28-19  
 DATE

SCALE 1"=10' JANUARY 2019

EQUITABLE WAIVER APPLICATION PLAN **C1**