



PORTLAND MAINE

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*Penny St. Louis - Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator*

August 4, 2011,

Kevin Tardiff
Anthony Tardiff's Towing
PO Box 1212
Portland, ME 04104

RE: 128 Anderson Street – 010 H005 – I-Lb Zone – license for Towing

Dear Mr. Tardiff,

It has come to the attention of our office that you have relocated your towing business from 84 Cove Street to 128 Anderson Street. This property is located in the I-Lb low impact industrial zone. Section 14-232 lists the permitted uses in the zone, and section 14-232.1 lists the conditional uses that are allowed. A storage lot for towed or impounded vehicles is not a permitted or conditional use in the zone. If a use is not a permitted or conditional use, then it is prohibited. You will need to relocate your business to a zone where this use is permitted. You have thirty days from the date of the letter to vacate the premises at 128 Anderson Street.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. If you decide to appeal you may contact our office for the necessary paper work.

Please feel free to call me at 874-8709 if you have any questions.

Yours truly,

A handwritten signature in black ink, appearing to read "Ann B. Machado".

Ann B. Machado
Zoning Specialist
(207) 874-8709

Cc file

~~6/22/11~~

128 Anderson St. ②

8/9/7/11 First thing - saw envelope in my mailbox. - It was put in on Sept. 6 after I left. -

Appeal 30 day appeal period was up September 3, 2011 - because letter was written August 4, 2011

9/8/11 - left 9:55 tried to leave voicemail
Kevin Toddiff's mailbox but mailbox was full.

- called office @ 772-2247 @ 11:00.

left a message for Kevin to call me ASAP regarding the appeal.

- 11:20 spoke w/ Kevin Toddiff.

- He has relocated from 128 Anderson
to 355 Warren Ave. - lost track
- called Sergeant Bowdoin (?) at police
department to tell him.

- has resubmitted paper work to city clerk's.

- 7/22/11 - left voicemail answering service to be called. ①

- Kevin Toddiff called back @ 9:30 - left voicemail
- tried to return call twice - but each time
the cellphone cut out after a few seconds

- 8/3/11 - left voicemail office. for Kevin to call me.

- tried cellphone - voicemail box full

- Kevin returned my call @ 3:40 - left voicemail

- 8/4/11 - left message w/ answering service for
Kevin to call me.

- tried cellphone - voicemail box still full.

- mailed letter.

8/18/11 Spoke to Kevin Toddiff. Thought it was ok.
was saying good. - emailed him pdf of variance
appeal - told him he had 30 days from
August 11 to appeal - sent him pdf of letter too.

128 Anderson St - Toddiff leaving

Ann Machado - 128 Anderson Street

From: Ann Machado
To: bjtariff@gmail.com
Date: 8/18/2011 2:33 PM
Subject: 128 Anderson Street
Attachments: 128 Anderson Street - tow lot.doc; Application Process ZBA.pdf; Variance Appeal.pdf

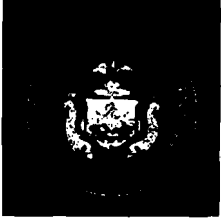
Kevin -

I have attached the application for the Variance Appeal and the application process for the Zoning Board of Appeals. I have also attached a copy of the letter that was written on August 4, 2011.

The three zones that allow "storage lots for towed or impounded vehicles" are the B-4 Commercial Corridor Zone (mostly along Warren Ave.), the I-M Industrial Zone (part of St John St., part of St. James Street, out near B&M Baked Beans, Riverside Street area, outer Congress beyond the turnpike, Pine Tree Industrial Way off Rand St, Bishop St., part of Canco Rd & Read St & Presumpscot St.), and I-H Industrial Zone (part of Warren Ave, beyond Riverside and pockets along Riverside St.). This is not a complete list but it is most of the areas.

Let me know if you have any questions.

Ann Machado
Zoning Specialist
874.8709



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*Penny St. Louis - Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator*

September 8, 2011,

Kevin Tardiff
Anthony Tardiff's Towing
PO Box 1212
Portland, ME 04104

RE: 128 Anderson Street – 010 H005 – I-Lb Zone – Variance Appeal Request

Dear Mr. Tardiff,

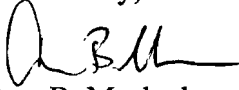
I received your incomplete Variance Appeal application by mail on Wednesday, September 7, 2011. Section 14-472(b)(1) states that you have thirty days to appeal a decision made by the building authority. I wrote you a letter on August 4, 2011 informing you that the use of the property at 128 Anderson Street as a tow lot was not a permitted use. The letter also stated that you had thirty days to appeal. The thirty day period to appeal this decision was up on September 3, 2011. You have lost your right to appeal. I am returning your check for the application since the period for you to appeal has expired.

We spoke on the telephone on August 18, 2011. You said that you had not received my letter. I explained to you that a tow lot was not a permitted use and that you needed to relocate your business to a zone that allowed it. I also told you that you had the right to appeal and that the period to appeal was up thirty from the date of the letter. I emailed you a copy of the August 4, 2011 letter and the Variance Appeal Application. Our office received your Variance Appeal application by mail on August 6, 2011, and I found it in my mailbox the morning of September 7, 2011.

Since you have lost your right to appeal, you cannot continue to operate your business at 128 Anderson Street. You need to relocate it to a zone that allows tow lots. It is my understanding from our telephone conversation today, that you have relocated your tow lot to 355 Warren Avenue as of last week and applied to the City Clerk's office for your license for this location.

Please feel free to call me at 874-8709 if you have any questions.

Yours truly,

A handwritten signature in black ink, appearing to read 'Ann B. Machado', with a stylized, flowing script.

Ann B. Machado
Zoning Specialist
(207) 874-8709

Cc file

(d) To initiate changes and amendments to this article.
(Code 1968, § 602.24.A; Ord. No. 437-74, 7-1-74; Ord. No. 354-85, § 5, 1-7-85)

Sec. 14-472. Appeals.

(a) *Authority.* The board of appeals shall hear and decide appeals from and review orders, decisions, determinations or interpretations or the failure to act of the building authority.

(b) *Procedure:*

- (1) *Notice of appeal.* An appeal may be taken to the board of appeals by any person affected by a decision of the building authority. Such appeal shall be taken within thirty (30) days of the action complained of by filing with the building authority a notice of appeal specifying the grounds thereof. A payment of a nonrefundable filing fee, as established from time to time by the city council to cover administrative costs and costs of hearing, shall accompany notice of appeal. The building authority shall forthwith transmit to the board of appeals all of the papers constituting the record upon which the action appealed from was taken.
- (2) *Public hearing.* A public hearing shall be set, advertised and conducted by the board of appeals in accordance with article VI of this chapter.
- (3) *Action by the board of appeals.* Within thirty (30) days following the close of the public hearing, the board of appeals shall render a decision on the appeal in the manner and form specified in article VI of this chapter. The failure of the board to act within thirty (30) days shall be deemed an approval of the appeal unless mutually extended in writing by the appellant and the board. Within five (5) days of such decision or failure to act notice thereof shall be mailed by the secretary to each party.
- (4) *Right to grant variance in deciding appeals.* In any case where the notice is accompanied by an application for variance in accordance with section 14-473(b)(1), the board of appeals shall have the authority to grant, as part of the relief, a variance, but only in strict compliance with each provision of section 14-473 hereof.



City of Portland, Maine
Department of Planning and Urban Development
Zoning Board of Appeals
Variance Appeal Application

Applicant Information:

Kevin Tardiff

Name

Anthony Tardiff's Towing

Business Name

P.O. Box 1212

Address

Portland ME 04104

201-772-2247

Telephone

Fax

Applicant's Right, Title or Interest in Subject Property:

owner

(e.g. owner, purchaser, etc.):

Current Zoning Designation:

128 Anderson St
Portland

Existing Use of Property:

Vehicle Storage lot

Subject Property Information:

128 Anderson St. Portland

Property Address

Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

Cardinal Real Estate

Name

Address

Portland ME 04103

201-775-7863

Telephone

Fax

201-773-0066

Variance from Section 14 -

WITHDRAWN

RECEIVED

SEP -7 2011

Dept. of Building Inspections
City of Portland Maine

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a variance as above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

Kevin Tardiff

Signature of Applicant

8/27/11

Date

Except as specifically provided by the ordinance, a variance may be granted by the Board only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. In order for the Board to find "undue hardship", the applicant must answer ALL of the following questions, and provide supporting evidence. The Board will consider this evidence in deciding whether to grant the appeal.

1. Can the land yield a reasonable return (not the highest return) without the granting of a variance?

Yes _____ (deny the appeal) No X

Reasons _____

2. Are there factors which are unique to the property, and not to the general conditions of the neighborhood, which create a need for a variance?

Yes X No _____ (deny the appeal)

Reasons This property is just a gravel piece of land
that cannot be seen from the road.

3. Will the granting of the variance alter the essential character of the locality?

Yes _____ (deny the appeal) No X

Reasons This property cannot be seen from the road

4. Is the hardship a result of the action taken by the applicant or a prior owner (self-created hardship)?

Yes _____ (deny the appeal) No X

Reasons _____

It is up to the applicant to decide whether to file an appeal after reviewing the above requirements.

Kevin Tardiff
Anthony Tardiffs Towing
P.O. Box 1212
Portland, Maine 04104
207-772-2247

City of Portland
389 Congress Street
Portland, Maine 04101
Zoning Board of Appeals

WITHDRAWN

Hardship Letter

I Kevin Tardiff from Anthony Tardiffs Towing am writing to you in regards to a letter I recieved from the zoning division of the city of portland. Its stating that my lot located at 128 Anderson Steet is not zones for an automobile lot and that I have to find another lot.

I am writing you this hardship letter to see if there is any way of appealing your decision for the fact that I have exhausted all possibilities of finding another tow lot. The land space in Portland has become so limited. My old storage lot at Cove Street abuts the one I am in now. This property is very hidden which cannot been seen from the road and would not interfere with any people

or business in the surrounding areas. I have been in business for 12 years now and not having an impound facility would put me out of business. I have worked for the city on city sweeps and snow removal and tow for the portland police department and have always been business and person. Please take this into consideration that not being able to have this small parcel of land for my storage lot will affect my business and livelihood.

Thank You
Kevin Tardiff

WITHDRAW