



CITY OF PORTLAND

July 24, 2001

Fred Gwartney
C/o Silly's
42 Washington Avenue
Portland, ME 04101

Nice Foods Corp
C/o Silly's
42 Washington Avenue
Portland, ME 04101

RE: 42 Washington Avenue – 013-E-015 – B-2b Zone

Dear Mr. Gwartney,

I am in receipt of your building permit to erect a 14' x 22' deck on the rear of the existing restaurant. **Your permit is being denied** because it can not meet the current zoning requirements.

The B-2b Business zone states that there is no requirement for a setback from the property line except when the side line abuts a first floor residential zone or a residential use, then a ten (10) foot setback is required (section 14-185). The left hand side of your building abuts a first floor residential use. Your plans show that you have only a one (1) foot setback instead of the ten (10) foot setback required.

The zoning requirements also require off-street parking based on the increase square footage (section 14-332). Your submitted plot plan shows no increased parking for the new public deck. The ordinance requires 1 parking space for each 150 square feet of area. You would need to show this office at least 2 off-street parking spaces for this proposal.

You have the right to appeal my decision (section 14-472). Variance appeals for setbacks are very difficult to have granted by the Zoning Board of Appeals. If you wish to exercise your right to appeal, you would have 30 days from the date of this letter in which to file an appeal. Please contact me at this office in order to get the proper appeal paperwork that you will need in order to file for an appeal.

It is also my understanding that the deck has already been built without the benefit of the

appropriate permits. If so, it may be necessary to remove this structure as soon as possible.

If you have any other questions, please call me at 874-8695.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marge Schmuckal", with a long horizontal flourish extending to the right.

Marge Schmuckal
Zoning Administrator

Cc: Mike Nugent, Housing and Neighborhood Services
David Caddell, Code Officer
Tammy Munson, Code Officer
File