



# PORTLAND MAINE

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*Jeff Levine, AICP, Director  
Marge Schmuckal, Zoning Administrator*

March 8, 2013

Drummond Woodsum  
84 Marginal Way, Suite 600  
Portland, ME 04101-2480

Attn: Kimberly Sweatt

RE: 47-49 Boyd Street – 022-I-003 (the “Property”) – R-6 Zone

Dear Ms. Sweatt,

I am in receipt of your request for a determination concerning the Property. The Property is located entirely within the R-6 Residential Zone. Research of our Inspection Services records indicate the last approved use for the Property as a legal nine (9) residential dwelling unit building as approved by the Zoning Board of Appeals on February 3, 2000. I have included a copy of the paperwork from our files.

I have attached copies of permits from the Inspection Services record that document the approved use. I have found no certificate of occupancy on file either for the Board approved nine unit building or a previous certificate of occupancy for the original building which was constructed well before the basis of the City’s Land Use Zoning Ordinance of June 5, 1957.

I am not aware of any code violations from other code reviewing authorities. There are no open violations in regard to the Property that are shown in our files.

If you have any questions regarding this matter, please feel free to call me at (207) 874-8695. You have the right to appeal my decision concerning this matter. If you wish to exercise your right to appeal, you have 30 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. Please contact this office for the necessary paperwork that is required to file an appeal.

Very truly yours,

Marge Schmuckal  
Zoning Administrator

enclosures

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

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Elizabeth Bordovitz, Chair  
Lee Lowry III, Secretary  
William Noleski, Jr.  
Andrew Braceras  
Sam Sivovlos  
Julie Brady  
Peter Clifford

February 4, 2000

Perkins, Thompson, Hinckley & Keddy  
Attn: David B. McConnell, Esq.  
Attorneys and Counselors at Law  
One Canal Plaza – P.O. Box 426  
Portland, ME 04112-0426

RE: 47-49 Boyd Street  
CBL: 022-I-003  
ZONE: R-6 Zone

Dear Attorney McConnell;

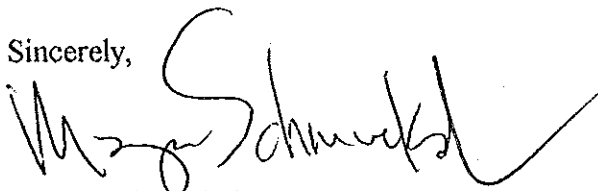
As you know, at its February 3, 2000 meeting, the Board of Appeals voted 5-1 to grant the concurrence that 47-49 Boyd Street is a legal 9-unit, R-2 Zone.

Enclosed please find a copy's of the Board's decision.

**It is now necessary for you to have the enclosed Certificate of Variance Approval recorded in the Cumberland County Registry of Deeds within 90 days in order for the variance to be valid.**

Should you have any questions regarding this matter, please do not hesitate to contact either myself or Nadine Williamson, Office Manager.

Sincerely,



Marge Schmuckal  
Zoning Administrator

MS/nbg  
Enclosure

CC: Area 1 (Arthur Rowe, David Caddell & Jeannie Bourke)

PRACTICAL DIFFICULTY VARIANCE

DECISION

Name and address of applicant: Paul and Donna Hodges

Location of property under appeal: 47-49 Boyd St. 22 - I - 3 + 9

Appearances.

Names and addresses of witnesses (proponents, opponents and others):

David McCannell Esq.

Robert Harris, 14 Taylor St, Port.

Alan Wolfe Esq.

Donna Hodges

Exhibits.

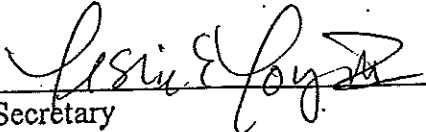
Application; legal pleadings;

CERTIFICATION BY ZONING ADMINISTRATOR

The Zoning Administer hereby certifies that:

- a. The Practical Difficulty variance applied for is permitted under §14-473(c)(3)(b)(1) (dimensional standards); and is not barred by the exceptions set forth in sections 14-473(c)(3)(a)(6) (shoreland and flood hazard areas); nor §14-473(c)(4) (relief limited to minimum variance required); nor §14-473(c)(3)(c) (specific variances prohibited); nor §14-473(c)(3)(d) (no relief for volume, floor area, nor setting of single-component manufactured homes).
- b. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. §435, nor within a shoreland zone or flood hazard zone as defined in this article.

The Zoning Administrator has certified/has not certified that the application comports with each of the above requirements.

  
Secretary

ORDINANCE CRITERIA

Findings of Fact:

Notwithstanding the provisions of §14-473(c)(1) and (2) of this section, the Board of Appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood:

IT IS 0 IT IS NOT 0 (deny application)

Comment: \_\_\_\_\_

2. The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties:

IT WILL NOT 0 IT WILL 0 (deny application)

Comment: \_\_\_\_\_

3. The Practical Difficulty is not the result of action taken by the applicant:

IT IS NOT 0 IT IS 0 (deny application)

Comment: \_\_\_\_\_

4. No other feasible alternative is available to the applicant, except a variance:  
IT IS NOT 5 IT IS 1 (deny application)

Comment: \_\_\_\_\_  
\_\_\_\_\_

5. The granting of a variance will not have an unreasonably adverse effect on the natural environment:  
IT WILL NOT 6 IT WILL 0 (deny application)

Comment: \_\_\_\_\_  
\_\_\_\_\_

6. Strict application of the dimensional standards of the ordinance to the subject property will preclude a use which is permitted in the zone in which the property is located.  
IT WILL 6 IT WILL NOT 0 (deny application)

Comment: \_\_\_\_\_  
\_\_\_\_\_

7. Strict application of the dimensional standards of the ordinance to the subject property will result in economic injury to the applicant.  
IT WILL 6 IT WILL NOT 0 (deny application)

Comment: \_\_\_\_\_  
\_\_\_\_\_

If the appeal is granted, does the Board wish to impose conditions which will further the intent and purpose of this Ordinance?

YES \_\_\_\_\_  
NO 1 \_\_\_\_\_

Specific Conditions: \_\_\_\_\_  
\_\_\_\_\_

Reasons: \_\_\_\_\_

Date of Public Hearing: 2/3/200

Motion: TO GRANT PRACTICAL DIFF. VAR. ALLOWING  
9 UNITS.  
(including conditions and findings of fact) \_\_\_\_\_

Votes in favor

[Signature]  
[Signature]  
[Signature]

Votes Opposed

[Signature]

0008717

BK # 5326PG 102

Inspection Services  
Marge Schmuckel  
Zoning Administrator

Department of Urban Development  
Joseph E. Gray, Jr.  
Director



CITY OF PORTLAND

CERTIFICATE OF VARIANCE APPROVAL

I, Elizabeth Bordowitz, the duly appointed Chair of the Board of Appeals for the City of Portland, Cumberland County and State of Maine, hereby certify that on the 3<sup>rd</sup> day of February, 2000, the following variance was granted pursuant to the provisions of 30-A M.R.S.A. Section 4353(5) and the City of Portland's Code of Ordinances.

1. Property Owner: Paul & Donna Hodges
2. Property: Cumberland County Registry of Book 13052, Page 090  
(Last recorded 4/29/97 Deed in Chain of Title)  
47-49 Boyd Street CBL; 022-I-003 & 009
3. Variance and Conditions of Variance:  
To grant relief from Section 14-139(2)A of the Zoning Ordinance to allow a nine (9) dwelling unit building on a lot(s) with a total land area of approximately 7020 square feet, R-6 Zone.

IN WITNESS WHEREOF, I have hereto set my hand and seal this 10<sup>th</sup> day of February, 2000

RECEIVED  
RECORDED REGISTRY OF DEEDS:

2000 FEB 17 PH 1:01

CUMBERLAND COUNTY

John B. O'Brien

*Elizabeth L. Bordowitz*, Chair

Elizabeth L. Bordowitz  
(Printed or Typed Name)

SEAL

STATE OF MAINE  
Cumberland, ss.  
Kennebec

Then personally appeared the above-named Elizabeth Bordowitz and acknowledged the above certificate to be her free act and deed in her capacity as Chairman of the Portland Board of Appeals.

*Sherry Y. Tompkins*  
SHERRY Y. TOMPKINS  
Notary Public, Maine  
My Commission Expires May 4, 2001 (Printed or Typed Name)  
Notary Public

PURSUANT TO 30-A M.R.S.A. SECTION 4353(5), THIS CERTIFICATE MUST BE RECORDED BY THE PROPERTY OWNER IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS WITHIN 90 DAYS FROM FINAL WRITTEN APPROVAL FOR THE VARIANCE TO BE VALID. FURTHERMORE, THIS VARIANCE IS SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 14-474 OF THE CITY OF PORTLAND'S CODE OF ORDINANCES.