

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

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

May 24, 1999

Earl & Letitia Hodgkins
32 Alder Street
Portland, ME 04101

RE: 32 Alder Street
033-C-021
B-2 Zone

Dear Mr. & Mrs. Hodgkins;

Receipt of your application for a Practical Difficulty Variance Appeal is acknowledged.

This appeal is scheduled for review before the Board of Appeals on Thursday, June 3, 1999 at 7:00 p.m. in Room 209, City Hall, Portland, Maine. You must plan to attend to answer any questions, which the Board may have concerning these appeals.

A copy of the June 3, 1999 agenda is enclosed for your information.

Sincerely,



Marge Schmuckal
Zoning Administrator

Enclosure

MS/nbg

Notwithstanding the provisions of subsections 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:
The property was a 5 unit apartment building. we wish to continue with the rehabilitation of the property by converting it to a 3-unit -
- 2) The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties:
There are several rental units in this area and it will not have any effect on abutting properties
- 3) The practical difficulty is not the result of action taken by the applicant: NO, we lack 60 sq feet and did not know this when we purchased it as an abandoned building.
- 4) No other feasible alternative is available to the applicant, except a variance: _____
See attached letters.
- 5) The granting of a variance will not have an unreasonably adverse effect on the natural environment: NO
- 6) 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. not to our knowledge - see attached location map.

The following words have the meanings set forth below:

- a) **Dimensional Standards:** Those provisions of this article which relate to lot area, lot coverage, frontage, and setback requirements.
- b) **Practical Difficulty:** A case where strict application of the dimensional standards of the ordinance to the property for which a variance is sought would both preclude a use of the property which is permitted in the zone in which it is located and also would result in economic injury to the applicant.

A Practical Difficulty Variance may not be used to grant relief from the provisions of §14-449 (Land Use Standards) to increase either volume or floor area, nor to permit the location of a structure, including, but not limited to, single-component manufactured homes, to be situated on a lot in a way which is contrary to the provisions of this article.

Earl and Letitia Hodgins
32 Alder Street
Portland, ME 04101

May 18, 1999

City of Portland
Zoning Board of Appeals Committee
389 Congress Street
Portland, ME 04101

Attention: Mr. Mark Manahan

Dear Committee Members:

This letter is written as a formal "letter of intent" regarding our property of 32 Alder Street. We wish to appeal the city zoning regulation that currently prohibits us from reclaiming a third apartment in the building. Our history is as follows:

This property was purchased at auction by Earl Hodgkins in September, 1993. The property had been damaged by fire and was located in one of the city's "hot spots" for known drug abusers and other criminal activity. At the time of purchase the property housed five units, but due to the fire damage, the building was vacant. Mr. Hodgkins spent the next year removing debris, for safety purposes, and consulting with advisors in the construction industry about his renovation plans. The final plan called for a three unit (one per floor) design. These plans were delayed when Earl's employer relocated him to Bangor. The family returned to Portland in late 1994, and finally made a permanent decision to stay (employment related) in late 1995.

In 1994 we obtained an original permit to gut the building and add skylights to the third floor. The rehabilitation process commenced, with bank financing secured for all new electrical, heating and plumbing units throughout the full three floors. After securing the financing Earl applied for a new permit and was advised that city zoning regulations had changed since the time of purchase and only two of the floors could be occupied as residential. The new zoning is B-2. This came as a severe blow, since our family planned to owner-occupy one floor and depended upon the rental income from the other two floors to support the renovations.

The zoning regulation in dispute is tied to the mandate that the site requires an additional 60 square feet of land. Attached are letters from the three adjacent landowners, to whom requests for sale, to us, for the required land has been denied firmly in two cases, and most probably in the third case.

We are appealing the zoning requirement for this additional space for the following reasons:

- 1) The property, at time of purchase, was zoned as a five unit apartment house. Earl purchased the home in good faith, and we desire to owner occupy the building. This is in harmony with the city's goals of neighborhood restoration similar to the "good neighbors" program. This home of 32 Alder Street is located within a low income neighborhood that we, as a family, hope to add meaningful contributions to as good citizens, with good tenants.

- 2) Reconstruction of the building replaces a dangerous home that had been occupied by transients conducting questionable activities prior to the renovation commencement.
- 3) As a B-2 zoned property, the first floor is eligible as a business site, but not a living site. A business would increase the traffic and parking needs; a tenant would affect traffic far less dramatically.
- 4) Our family has invested all of their savings into the home. This process constitutes a hardship economically. If the variance is not approved, we may have to sell the property and liquidate to resolve the debt acquired for the renovations. If we are allowed to live there, we can contribute meaningfully to the neighborhood and our personal income will stabilize.

We appreciate your careful consideration of this request and you will agree with us that our intended use of the building will comprise a community contribution. We are available to address any questions you may have on this matter. Thank you.

Sincerely,

Earl and Letitia Hodgkins

WARRANTY DEED
Joint Tenancy
Maine Statutory Short Form

KNOW ALL PERSONS BY THESE PRESENTS, That

I, **Earl A. Hodgkins,**

of **Portland**, County of **Cumberland**, State of **Maine,**

for consideration paid, grant to **Earl A. Hodgkins and Letitia A. Hodgkins**

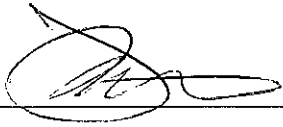
of **Portland**, County of **Cumberland**, State of **Maine,**

whose mailing address is **32 Alder Street, Portland, Maine 04101**

with **warranty covenants**, as joint tenants the land in **Portland, County of Cumberland, and State of Maine**, described on the attached **EXHIBIT A.**

WITNESS our/my hand(s) and seal(s) this 21st day of March, 1997.

Signed, Sealed and Delivered in presence of:



Earl Hodgkins

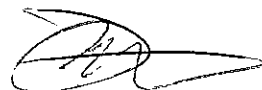
STATE OF MAINE

March 21, 1997

COUNTY OF Cumberland

Then personally appeared the above named Earl Hodgkins and acknowledged the foregoing instrument to be his/~~her~~ their free act and deed.

Before me,



Notary Public

Printed Name: Fred O'Neil

My Commission Expires: 5-16-2000

Exhibit A - Property Description

A certain lot or parcel of land, with the buildings thereon, situated on the westerly side of Alder Street, in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning on the westerly line of said Alder Street at the northeasterly corner of land conveyed by Lawrence Townsend, et als to Charles I. Barbre, et al by deed dated October 12, 1945 and recorded in the Cumberland County Registry of Deeds in Book 1802, Page 253; thence running westerly by a line drawn parallel with and twelve feet six inches (12'6") from the face of the brick underpinning of the house #32 Alder Street twenty (20) feet, more or less, to the northwest corner of said Barbre land; thence southerly by said Barbre land nine feet eight inches (9'8"), more or less, to a point that would be intersected by the extension of a line drawn parallel with the three (3) feet from the face of the rear wall of the house #31-33 Portland Street; thence westerly by said parallel line fifty (50) feet, more or less, to the stable on the adjoining land; thence northerly 22' by said stable and continuing to the rear end of the house at #32 Alder Street; thence by the rear of said house twenty (20) feet, more or less, to land conveyed by Robert R. Green to Lyman M. Kimball by deed dated June 5, 1952 and recorded in the Cumberland County Registry of Deeds at Book 1239, Page 80; thence easterly by said Kimball land seventy-two feet six inches (72'6") more or less, to the westerly line of Alder Street; thence southerly by said line of Alder Street thirty-two feet eight inches (32'8") more or less, to the point of beginning.

Being the same premises conveyed to the Grantor herein by deed of Stephen J. Ryan et al dated August 21, 1992 and recorded in the Cumberland County Registry of Deeds in Book 10235, Page 110.

RECEIVED
RECORDED REGISTRY OF DEEDS
97 MAR 26 PM 1:01
CUMBERLAND COUNTY
John B. O'Brien