

September 19, 1974

Kenneth Murphy, Esquire  
114 Dexter Boulevard  
Portland, Maine

RE: Request for Variance Appeal at 471-473 Cumberland Avenue  
cor. 247-253 State Street

Dear Mr. Murphy:

On September 11, 1974, the Board of Appeals of the City of Portland held a hearing on the petition submitted by you and your wife Catherine for a Variance Appeal to change the use of the 12 family apartment house situated at the above-described premises to a 13 family apartment house with an additional apartment in the basement.

Appearance: You appeared at the hearing and testified in support of the request. There was no opposition to your request. Brian Nickerson appeared on behalf of the Planning Board.

Exhibits: The following exhibits were presented to the Board:

- (a) The plans and specifications filed in the office of the Building Inspector.
- (b) A photograph of the premises.

Evidence: All of the evidence presented to the Board was presented through your testimony. The Board finds that you are the owner of a 12 family apartment house at the above-addressed which was badly damaged by fire approximately one year ago and in rebuilding the structure you attempted to renovate a 13th apartment located in the basement of the building. At that time you were advised by the office of the Building Inspection Department that the use was not permitted for the reasons set forth above. You testified that you needed the 13th apartment in order to help offset the high cost of operating the building, especially fuel costs.

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Conclusion. The Board finds that the lot on which the building is located is exceptional, because of its marginal size; that this condition existed at the time the enactment of the provisions for which the variance is sought; that carrying out the strict letter of the provision for which variances are sought would deprive you of the substantial use and enjoyment of your property; and that property in the same area will not be affected by the granting of the variances.

Decision. The variance requested by you is hereby granted.

Very truly yours,

BOARD OF APPEALS

By s/ Thomas J. Murphy  
Thomas J. Murphy  
Its Secretary

TJM/CH

CITY OF PORTLAND, MAINE  
IN THE BOARD OF APPEALS

VARIANCE APPEAL

Kenneth & Catherine Murphy, owner of property at 471-473 Cumberland Ave.  
247-253 State St.  
under the provisions of Section 24 of the Zoning Ordinance of the City of  
Portland, hereby respectfully petitions the Board of Appeals for a variance  
from the provisions of said Ordinance to permit: and certificate of  
occupancy to change the use of the 12 family apartment house at the above  
named location to a 13 family apartment house (additional apartment in  
the basement). This permit is not issuable under the Zoning Ordinance  
because the area of the lot on which this building is located is only  
about 5,910 sq. feet instead of the minimum of 13,000 sq. feet (1,000 sq.  
feet per family) required by Section 602.7.B.8 of the Ordinance applying  
to the R-6 Residential Zone.

LEGAL BASIS OF APPEAL: Such variance may be granted only if the Board  
of Appeals finds that the strict application of the provisions of the  
Ordinance would result in undue hardship in the development of property  
which is inconsistent with the intent and purpose of the Ordinance; that  
there are exceptional or unique circumstances relating to the property  
that do not generally apply to other property in the same zone or  
neighborhood, which have not arisen as a result of action of the appli-  
cant subsequent to the adoption of this Ordinance whether in violation  
of the provisions of the Ordinance or not; that property in the same  
zone or neighborhood will not be adversely affected by the granting of  
the variance; and that the granting of the variance will not be contrary  
to the intent and purpose of the Ordinance.

Kenneth Murphy  
APPELLANT

DECISION

After public hearing held \_\_\_\_\_, the Board of Appeals finds  
that all of the above conditions do exist with respect to this property  
and that a variance should be granted in this case.

It is, therefore, determined that a variance from the provisions of the  
Zoning Ordinance should be granted in this case.

Edith E. Kilham  
Sequelina Cohen  
Thomas Murphy  
Board of Appeals  
James O'Malley