



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • [www.portlandmaine.gov](http://www.portlandmaine.gov)*

*Jeff Levine - Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator*

July 17, 2012

Todd M. Alexander  
Year 15, LLC  
3 Carroll Street  
Portland, ME 04101

RE: 133 York Street – 44-A-029 & 44-A-031 – R-6 Zone

Dear Mr. Alexander,

I am in receipt of your request for a determination concerning the property located at 133 York Street. The entire property is located in a R-6 residential zone. There are no other overlay zones on the property.

I have not been given a boundary survey (only a mortgage survey), so I am relying on what the Assessor's office has for the lot size at this time. Both parcels 44-A-029 & 44-A-031 are considered one lot for the purposes of development. The total lot size is 7,631 square foot in size. Using section 14-139(a)2.a of the R-6 Zone "Minimum (lot) area per dwelling unit", it appears that you could get a maximum of six (6) dwelling units on this property. This calculation is not taking into account section 14-136(a)2 which limits alterations of an existing residential structure. A final determination on allowable dwelling units will be made at the time of an application with floor plans. If the existing building is to be demolished and new building is to be constructed, then 14-139(a)2.a will be the sole determining factor for allowable number of dwelling units. Please note that the Land Use Zoning Ordinance is very prescriptive in it's wording and does not allow rounding up.

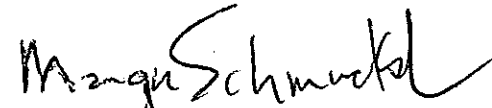
Section 14-139(a)4.a states that a front yard for a principal or accessory structure is ten (10) feet. However, the Ordinance goes on to state: "A front yard need not exceed the average depth of the front yards on either side of the lot". Therefore, the option for averaging the front yards of the buildings on either side of 133 York Street may be employed for the front along York Street. Because of the lot's configuration, the allowable averaging feature may be employed for the front along what is labeled Front-2 on the submitted mortgage survey.

As stated above, the two described parcels of 44-A-029 & 44-A-031 are considered one lot for purposes of development. Only the external property lines would be used for determining required setbacks.

A search of our records shows that the current legal use of the property at 133 York Street is a two family dwelling. Based only on zoning, there is no prohibition on demolishing the existing building on site. Please note that Division 29, Preservation and Replacement of Housing Units, is not enforced by the Zoning Administrator. That Ordinance is enforced by the "Planning Authority", which can mean the Director of Planning and Urban Development, Jeff Levine, or Alex Jaegerman, the Planning Division Director. However I will point out that the applicability section of the Ordinance, applies to "the loss of three or more dwelling units in a five year period...". The next paragraph does provide an exception to the Ordinance where the loss of fewer than three (3) dwelling units results in created surface parking. Therefore, my reading of this section of the Ordinance would allow you to demolish the existing two units and rebuild a new residential structure meeting current R-6 dimensional requirements without triggering any penalties under the Preservation and Replacement of Housing Units. It would not allow you to demolish the existing two residential units and create a parking lot as a new principal use without triggering the Replacement Housing Ordinance penalties.

If you have any questions regarding this letter, please do not hesitate to contact me at 874-8695.

Very truly yours,



Marge Schmuckal  
Zoning Administrator

- c. Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
- d. Intermediate care facility: One (1) acre.
- e. School: Thirty thousand (30,000) square feet.
- f. Places of assembly;

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

- g. Municipal use: Forty-five hundred (4,500) square feet.
- h. Hospital: Two (2) acres.
- i. All other uses: Forty-five hundred (4,500) square feet.
- j. Lodging house: Four thousand five hundred (4,500) square feet.

14-139(a) 2. <sup>2.</sup> <sub>2.</sub>



- a. *Minimum area per dwelling unit:* One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.
- b. *Minimum rooming unit areas for lodging houses:* Two hundred (200) square feet of combined rooming unit and common area for each rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.
- c. *Minimum land area per lodging house rooming unit:* Two hundred fifty (250) square feet.

printed 7/13/12

**Sec. 14-136. Permitted uses.**

The following uses are permitted in the R-6 residential zone:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.
2. Multifamily dwellings, provided that any alteration of a structure in residential use on December 2, 1987:
  - a. Shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and
  - b. Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic;
  - c. Parking shall be provided as required by division 20 of this article;
  - d. No open outside stairways or fire escapes above the ground floor shall be constructed;
  - e. A below-grade dwelling unit shall be permitted only if access is provided directly to the outside of the building;

14-136(a)2

- d. *Minimum land area per intermediate care facility resident:* Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.
3. *Minimum street frontage:* Forty (40) feet.
4. *Minimum yard dimensions:* (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

14-139(2)4a

a. *Front yard:*

Principal or accessory structures: Ten (10) feet.

A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.

b. *Rear yard:*

- i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.
- ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
- iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

c. *Side yard:*

- i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:

*Height of Structure      Required Side Yard*

Todd M. Alexander  
Year 15, LLC  
3 Carroll Street  
Portland, ME 04101

July 3, 2012

Marge Schmuckal  
Zoning Administrator  
City of Portland  
389 Congress Street, #308  
Portland, ME 04101

RECEIVED  
JUL 03 2012  
Dept. of Building Inspections  
City of Portland Maine

Dear Ms. Schmuckal,

This letter is being submitted for purposes of obtaining a zoning determination on certain zoning, setback and other issues related to the subject property 133 York Street, identified on the City of Portland's assessor's maps with Chart-Block-Lot numbers 44-A-29 and 44-A-31. The questions regarding this property are:

1. Please confirm that the subject property is part of the R-6 zone. *yes*
2. Please confirm the maximum allowed number of residential units based on an identified 5,720 SF lot area in lot 44-A-29 and 2,361 SF of lot area in lot 44-A-31. As part of this answer, please confirm whether the city will round up or down to a whole number when the proscribed density calculation yields a decimal number. For example, if the proscribed maximum density calculation results in a decimal number of 6.86 units, is the allowed number of units 6 or 7? *very presumptive*  
*There is no rounding in zoning*
3. Please confirm that a) the front setback for this parcel shall be no more than the average of the two adjacent lots on York Street (CBLs: 44-A-7 and 44-A-5) and b) once the average setback of the two adjacent parcels is determined, that setback will apply to all York Street facing boundary lines, including the boundary line labeled as "Front-2".
4. For purposes of establishing property setbacks, will the boundary lines of the two tax parcels that make up this property be considered individually -- or will the property be treated as one *one* parcel with one set of boundary lines? By way of background, the two parcels are currently owned by the same person and have a single deed. The two parcels will be purchased and held by a single entity as one property. *yes*
5. A two-unit residential building currently exists on the property. The property is not located in a locally designated historic district. The property does not appear to be individually identified

as a landmark property, or certified historic structure. May the building be demolished? If no new residential units are proposed as part of the demolition project, will the owner at the time of demolition be subject to Chapter 14, Division 29 (Preservation and Replacement of Housing Units) and be required to replace the housing units or pay a fee in lieu of replacement?

Sincerely,

↓ Division 29  
14-483

PSS 14-668 - 674



Todd M. Alexander

THIS IS NOT A BOUNDARY SURVEY

**INSPECTION OF PREMISES**

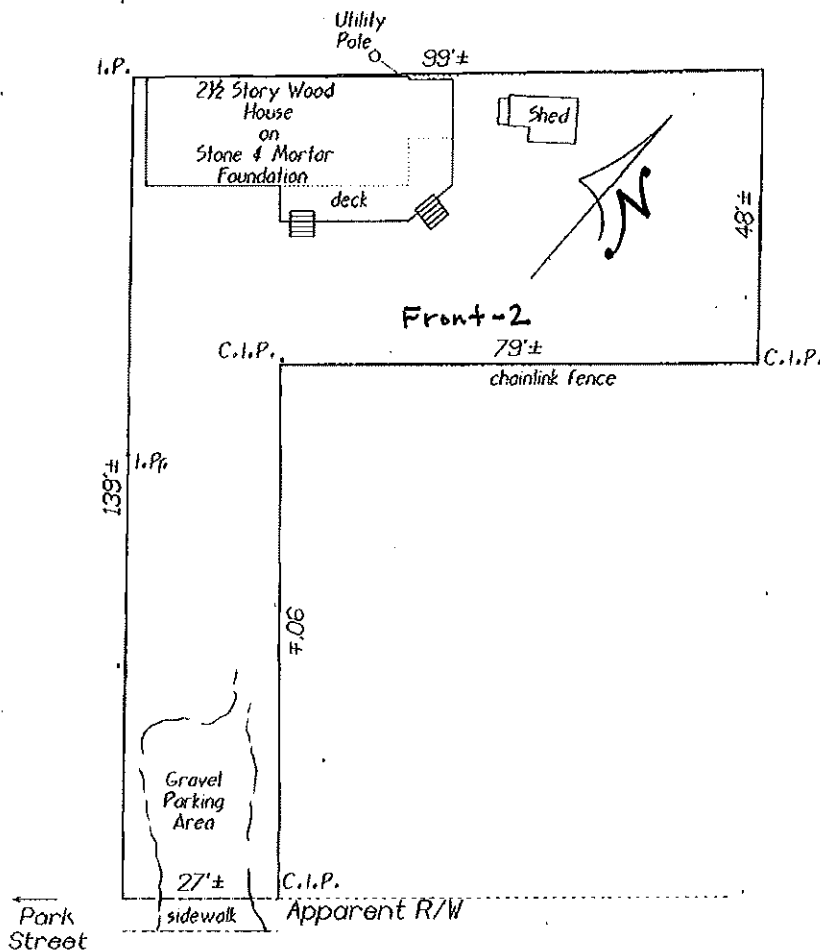
I HEREBY CERTIFY TO Douglas Title Co.

133 York Street  
Portland, Maine

Job Number: 417-19  
Inspection Date: 06-27-12  
Scale: 1" = 30'

The monumentation is ~~not~~ in harmony with current deed description. *Deed is Vague*  
The building setbacks are ~~not~~ in conformity with town zoning requirements. *"Grandfathered"*  
The dwelling does not ~~appear to~~ fall within the special flood hazard zone as delineated by the Federal Emergency Management Agency.  
The land does not ~~appear to~~ fall within the special flood hazard zone as indicated on community-panel # 230051 0013 B.

BUYER: Year 15, LLC  
SELLER: Bethany Ruth Cary



THIS PROPERTY IS SUBJECT TO ALL RIGHTS AND EASEMENTS OF RECORD. THOSE THAT ARE EVIDENT ARE SHOWN. THIS PLAN MIGHT NOT REVEAL CONFLICTS WITH ABUTTING DEEDS.

**Bruce R. Bowman**  
INCORPORATED  
18 1/2 John Small Road  
Chebeague Island, Maine 04017  
Phone: (207) 846-1663  
Fax: (207) 846-1664



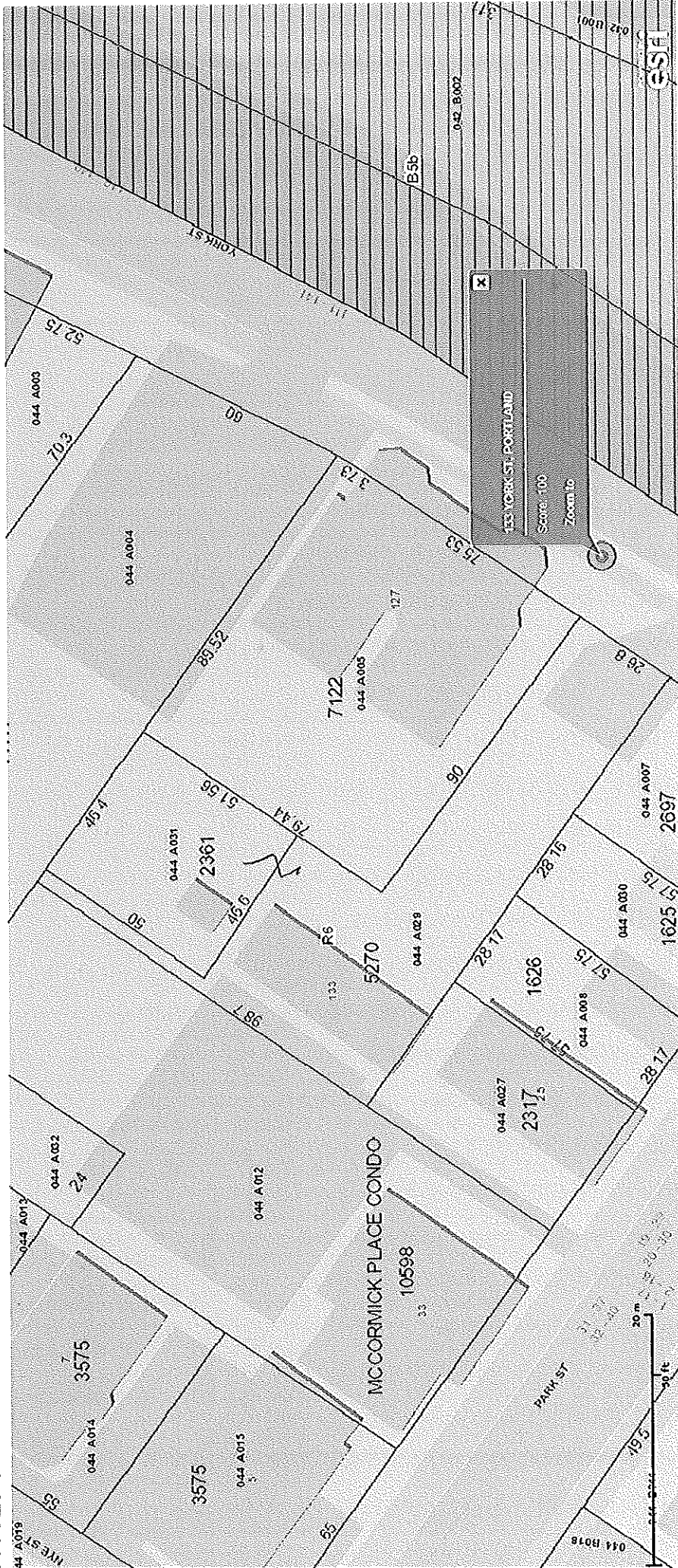
PLAN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ LOT \_\_\_\_\_  
DEED BOOK 22276 PAGE 211 COUNTY Cumberland

THIS PLAN IS NOT FOR RECORDING Drawn by: *B.R.B.*



# 133 York St

44-A-29 & 44-A-31



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under same name - 2 separate tax bills  
 44-A-29 = 5270  
 44-A-31 = 2361  
7631 TOTAL (Assessor's Numbers (NO ASurvey))

$$\begin{array}{r}
 7631 \\
 - 3000 = 3D4 (1000 \text{ ea}) \\
 \hline
 4631 \div 1200 = 3.859 \text{ or } 3
 \end{array}$$

6 Du. m/f



# APPLICATION FOR PERMIT

Class of Building or Type of Structure Third Class  
Portland, Maine, May 27, 1955

PERMIT ISSUED  
007340  
MAY 27 1955  
CITY OF PORTLAND

To the INSPECTOR OF BUILDINGS, PORTLAND, MAINE

The undersigned hereby applies for a permit to ~~alter repair~~ ~~demolish~~ ~~install~~ the following building structure equipment in accordance with the Laws of the State of Maine, the Building Code and Zoning Ordinance of the City of Portland, plans and specifications, if any, submitted herewith and the following specifications:

Location 131 York St. (Rear) Within Fire Limits?  Dist. No.         
Owner's name and address George A. Dumeny, 131 York St. Telephone         
Lessee's name and address        Telephone         
Contractor's name and address Owner Telephone 3-9620  
Architect        Specifications        Plans        No. of sheets         
Proposed use of building 2-family dwelling No. families         
Last use        " " " " No. families         
Material        No. stories 2 Heat        Style of roof        Roofing         
Other buildings on same lot         
Estimated cost \$ 100.00 Fee \$ 50

### General Description of New Work

To enlarge existing front porch one foot--approximately 5x6  
Two story with ~~roof over~~ 30' front yard

DATE DATE OF OCCUPANCY  
REQUIREMENT IS WAIVED

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor. PERMIT TO BE ISSUED TO

owner

### Details of New Work

Is any plumbing involved in this work?  Is any electrical work involved in this work?   
Is connection to be made to public sewer?  If not, what is proposed for sewage?         
Has septic tank notice been sent?  Form notice sent?   
Height average grade to top of plate 11' 6" Height average grade to highest point of roof         
Size, front        depth        No. stories        solid or filled land?  earth or rock?   
Material of foundation cement piers at least 4' below ground or to ledge         
Material of underpinning wood (hard pine) Thickness, top 8" bottom        cellar         
Material of underpinning wood (hard pine) Height 3' 6" Thickness 4x4  
Kind of roof none Rise per foot        Roof covering         
No. of chimneys        Material of chimneys        of lining        Kind of heat        fuel         
Framing lumber—Kind hemlock Dressed or full size? dressed  
Corner posts 4x4 Sills 4x6 Girt or ledger board?        Size         
Girders        Size        Columns under girders        Size        Max. on centers         
Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.  
Joists and rafters: 1st floor 2x6, 2nd 2x6, 3rd       , roof 2x6  
On centers: 1st floor 16", 2nd 16", 3rd       , roof 16"  
Maximum span: 1st floor 6', 2nd 6', 3rd       , roof 6'  
If one story building with masonry walls, thickness of walls?        height?       

### If a Garage

No. cars now accommodated on same lot       , to be accommodated        number commercial cars to be accommodated         
Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building?

### Miscellaneous

APPROVED:

O.R. - 5/27/55 - 298

Will work require disturbing of any tree on a public street? no  
Will there be in charge of the above work a person competent to

Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

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This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

**Current Owner Information:**

*Services*

Applications

Doing Business

Maps

Tax Relief

Tax Roll

Q & A

browse city services a-z

browse facts and links a-z

**CBL** 044 A031001  
**Land Use Type** VACANT LAND  
**Property Location** 0 YORK ST  
**Owner Information** CARY BETHANY RUTH  
 166 OCEAN HOUSE RD  
 CAPE ELIZABETH ME 04107  
**Book and Page** 22276/211  
**Legal Description** 44-A-31  
 R YORK ST 127-129  
 2361 SF  
**Acres** 0.054

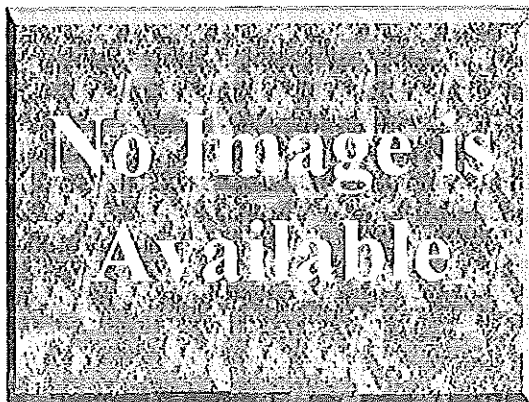
**Current Assessed Valuation:**

<b>TAX ACCT NO.</b>	6376	<b>OWNER OF RECORD AS OF APRIL 2011</b>
		CARY BETHANY RUTH
<b>LAND VALUE</b>	\$14,200.00	16 STRATHMORE RD
<b>BUILDING VALUE</b>	\$0.00	SOUTH PORTLAND ME 04106
<b>NET TAXABLE - REAL ESTATE</b>	\$14,200.00	
<b>TAX AMOUNT</b>	\$259.58	

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).



Best viewed at 800x600, with Internet Explorer



[View Map](#)

**Sales Information:**

Sale Date	Type	Price	Book/Page
1/31/2005	LAND + BUILDING	\$206,800.00	22276/211

[New Search!](#)

Assessor's Office | 359 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8466

[City](#)
[Home](#)
[Departments](#)
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[E-Services](#)
[Calendar](#)
[Jobs](#)

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

**Current Owner Information:**

<b>Services</b>	<b>CBL</b>	044 A029001
	<b>Land Use Type</b>	TWO FAMILY
	<b>Property Location</b>	133 YORK ST
<b>Applications</b>	<b>Owner Information</b>	CARY BETHANY RUTH 166 OCEAN HOUSE RD CAPE ELIZABETH ME 04107
<b>Doing Business</b>	<b>Book and Page</b>	22276/211
<b>Haps</b>	<b>Legal Description</b>	44-A-29 YORK ST 133 McCORMICK PLACE 5270 SF
<b>Tax Relief</b>	<b>Acres</b>	0.121
<b>Tax Roll</b>		

**Current Assessed Valuation:**

	<b>TAX ACCT NO.</b>	6374	<b>OWNER OF RECORD AS OF APRIL 2011</b>
			CARY BETHANY RUTH
<b>browse city services a-z</b>	<b>LAND VALUE</b>	\$152,500.00	<b>16 STRATHMORE RD</b>
	<b>BUILDING VALUE</b>	\$63,500.00	<b>SOUTH PORTLAND ME 04106</b>
	<b>NET TAXABLE - REAL ESTATE</b>	\$216,000.00	
<b>browse facts and links a-z</b>	<b>TAX AMOUNT</b>	\$3,948.48	

Any Information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

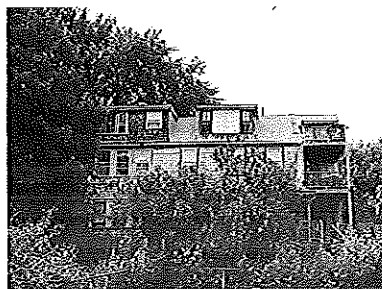
**Building Information:**



Best viewed at 800x600, with Internet Explorer

	<b>Building 1</b>
<b>Year Built</b>	1804
<b>Style/Structure Type</b>	OLD STYLE
<b># Stories</b>	2
<b># Units</b>	2
<b>Bedrooms</b>	3
<b>Full Baths</b>	2
<b>Total Rooms</b>	8
<b>Attic</b>	FULL FIN./WH
<b>Basement</b>	FULL
<b>Square Feet</b>	2330

[View Sketch](#)
[View Map](#)
[View Picture](#)



**Outbuildings/Yard Improvements:**

	<b>Building 1</b>
<b>Year Built</b>	1985
<b>Structure</b>	SHED-FRAME
<b>Size</b>	8X10
<b>Units</b>	1
<b>Grade</b>	D
<b>Condition</b>	F

**Sales Information:**

<b>Sale Date</b>	<b>Type</b>	<b>Price</b>	<b>Book/Page</b>
1/31/2005	LAND + BUILDING	\$206,800.00	22276/211

**New Search!**



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • [www.portlandmaine.gov](http://www.portlandmaine.gov)*

Receipts Details:

**Tender Information:** Check , Check Number: 296

**Tender Amount:** 150.00

Receipt Header:

**Cashier Id:** bsaucier

**Receipt Date:** 7/3/2012

**Receipt Number:** 45618

Receipt Details:

Referance ID:	446	Fee Type:	BP-DP
Receipt Number:	0	Payment Date:	
Transaction Amount:	150.00	Charge Amount:	150.00
Job ID: Miscellaneous charges			
Additional Comments: 133 York ST			

Thank You for your Payment!