

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Jeff Levine
Director Planning & Urban Development



CITY OF PORTLAND
ZONING BOARD OF APPEALS
Variance Appeal Application

Applicant Information:

Neil Reiter
NAME
227 RESTAURANT GROUP
BUSINESS NAME
PO Box 275
ADDRESS
Brooklin, Maine 04616
TELEPHONE #
207-359-4950
APPLICANT'S RIGHT, TITLE OR INTEREST
(eg; owner, purchaser, etc)
Lessee
CURRENT ZONING DESIGNATION
B-1 Neighborhood Business
EXISTING USE OF PROPERTY:
Ground floor is unused/vacant
Upper Floor is residential

Subject Property Information

227 York St., Portland, ME
PROPERTY ADDRESS
Tax map 044 E002
Book & Page 28620/234
CHART/BLOCK/LOT (CBL)
PROPERTY OWNER (if different)
NAME
A BETTER MAINE LLC
ADDRESS PO Box 15414
Portland, ME 04112

VARIANCE FROM
SECTION 14-166 Other Requirements/
Off Street Parking - ref.
Sec. 14-332

RECEIVED

NOV 19 2012

Dept. of Building Inspections
City of Portland Maine

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

SIGNATURE OF APPLICANT

November 19, 2012
DATE

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Except as specifically provided by the Ordinance, a variance may be granted by the Board of Appeals ONLY where strict application of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. In order for the Board to find "undue hardship" the applicant must answer ALL of the following questions and provide supporting evidence. The Board will consider this evidence in deciding whether to grant the appeal.

1. The land in question cannot yield a reasonable return unless a variance is granted.
 [NOTE: "failure to yield a 'reasonable return' means 'the practical loss of all beneficial use of the land...Reasonable return DOES NOT mean maximum return" *Rowe v. City of South Portland, 730 A.2d 673, 675 (ME 1999) (citations omitted.)*]

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts: CORRECT.

Requiring the proposed restaurant to provide parking would create hardship. The additional financial burden of providing parking would be enough to jeopardize installation of this business in this building. The anticipated revenues of this very small restaurant (less than 850 SF) would not be able to bear the added cost for purchasing parking accommodations, as there is no way to accommodate parking on the site. It should be noted that the neighboring future restaurant at 231 York St. - a significantly larger establishment - has been granted an exemption from parking provisions through the variance process.

2. The need for a variance is due to the unique circumstances of the property and NOT to the general conditions of the neighborhood.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts: CORRECT.

Off-street parking is not possible on this site, as there is only one six-foot wide side-yard on this narrow property. This small side-yard serves as the exclusive walkway and entrance to the residential occupancy on the floor above the proposed restaurant (see attached picture). The closest public parking lot is more than 1/3 mile away (see attached diagram), and therefore is not within a reasonable walking distance from the site.

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ZONING BOARD OF APPEALS
Variance Appeal Application

3. The granting of a variance will NOT alter the essential character of the locality.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts: CORRECT.

The current ground floor at 227 York Street is vacant, un-used and boarded up and is an "eyesore" in its present condition. (See attached photograph.) The presence of a small, fine-dining establishment will serve the neighborhood well as a well-lit and engaging presence along the street, and will accelerate the continuing economic and visual improvements in this part of the West End. Granting a parking variance would have no effect on the essential character of the neighborhood.

4. The hardship is NOT the result of action taken by the applicant or a prior owner.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts: CORRECT.

~~This hardship is not the result of any action taken by the Applicant or Owner~~
of this property. The hardship is simply the result of a very narrow site that is almost fully occupied by building, and the proposed restaurant project entails no change to the building envelope other than cosmetic improvements.

REITER ARCHITECTURE & DESIGN

Lauren J. Reiter, Architect LEED™ AP

November 19, 2012

Dept. of Planning and Urban Development
Portland City Hall
389 Congress Street
Portland, Maine 04101

Re: Conditional Use and Zoning Variance Applications for 227 York Street, Portland, ME

Dear Dept. of Planning and Urban Development,

Enclosed herein is our application for the Conditional Use of 227 York Street for a ground-floor restaurant, currently known as "York Street Restaurant". Also enclosed is the application for a Variance to exempt the proposed business from off-street parking requirements. Consistent with Land Use Chapter 14/ City of Portland Code of Ordinances, Section 14-474, we are submitting the required applications and supporting documents.

227 York Street is zoned as B-1 Neighborhood Business. In this zoning category, and consistent with Sec. 14-163 Conditional Use, restaurants are allowed if the following criteria are met:

- Max. floor area of 1000 SF: *York Street Restaurant ground floor = 844 SF*
- Hours of operation limited to between 6:00 am to 11:00 pm: *York Street Restaurant hours are planned to be from 6:30 am to 11:00 pm*
- Primary function is food service & consumption: *York Street Restaurant's primary purpose is the serving of fine cuisine.*
- No drive-through service: *York Street Restaurant will not have a drive-through.*
- Peak hour vehicle trips under 100 per 2000 SF: *York Street Restaurant, based on its size and capacity, expects to generate less than 25 peak hour vehicular trips.*

Should the Conditional Use be granted, Sec. 14-166 Other Requirements indicates that off-street parking is required. (Per Div. 20, Sec. 14-332, three spaces for approx. 430 SF of public space would be required). A Variance for exemption from this requirement is requested – and supported in the attached application - as on-site parking is not feasible and public parking lots are distant from the site.

The proposed fine-dining restaurant at the ground floor level of 227 York Street will provide a positive impact on the neighborhood, converting a vacant and desolate space to one that will invigorate street-life and provide convenient opportunities for the neighborhood. As such, its impact on the health, safety and welfare of the public is entirely positive.

Please note that we request that this conditional use and variance is approved for a 2-year period, as our initial start date is not yet determined. Also, please note that Stella Hernandez is authorized to represent this project and may provide any or all responses as needed. Ms. Hernandez's contact number is: 207-415-7447.

We look forward to receiving your comments on these applications and appreciate the time taken to review them.

Sincerely,



Lauren J. Reiter, Project Architect
Principal, Reiter Architecture & Design
Tel. 207-359-2300



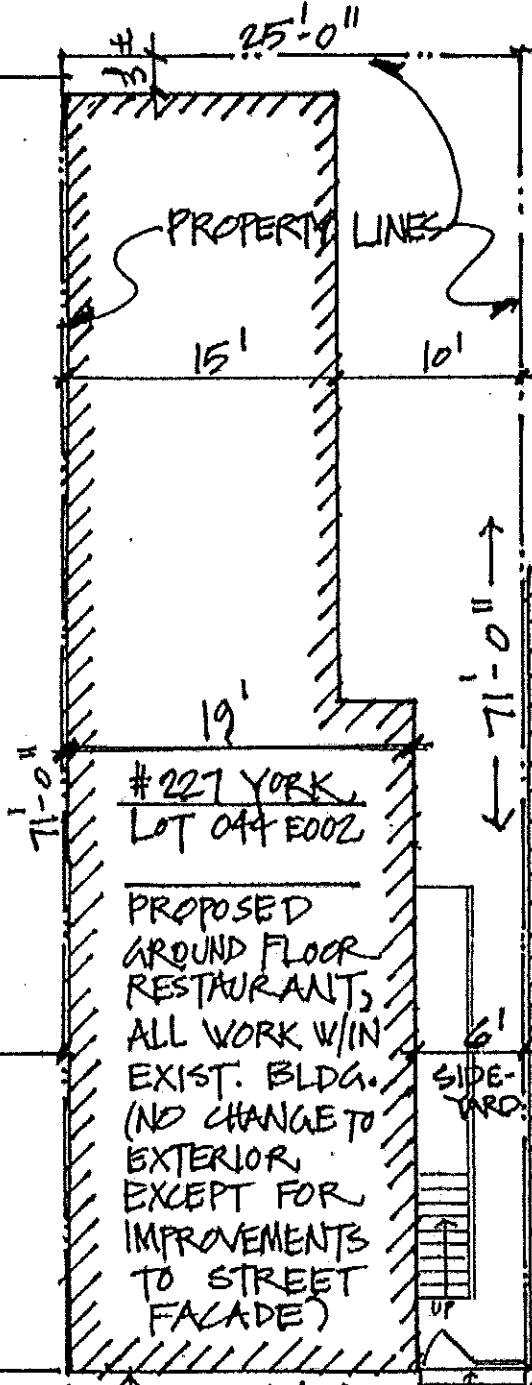
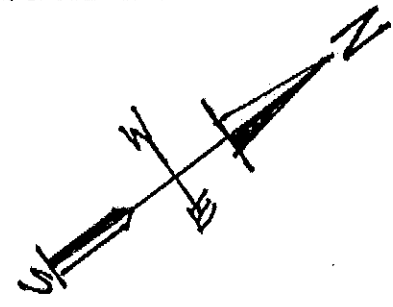
Neil A. Reiter, Principal / Lessee
227 RESTAURANT GROUP
Tel. 207-359-4950

ATTACHMENTS

Conditional Use and Zoning Variance Applications for 227 York Street, Portland, ME
November 19, 2012

1. Plot Plan
2. Assessor's Plan
3. Owner's Letter
4. Aerial Photo with Public Parking distances
5. Proposed Plan (reduced size)
6. Existing Conditions Photo
7. Existing Condition Photos
8. Full-scale Proposed Plan

NOTE: ALL DIMENSIONS NOTED IN THIS DRAWING ARE TAKEN FROM PUBLIC RECORDS, NOT FROM A NEW LICENSED SURVEY



#221 YORK
PANAFISHER LLC
LOT 044 E003

#227 YORK
LOT 044 E002

#225 YORK
WATERFRONT CONDO.
LOT 044 E001

PROPOSED
GROUND FLOOR
RESTAURANT,
ALL WORK W/IN
EXIST. BLDG.
(NO CHANGE TO
EXTERIOR
EXCEPT FOR
IMPROVEMENTS
TO STREET
FACADE)

SIDE-
YARD

← 59' TO CORNER
(TOWARDS BRACKETT ST.)

→ 34' TO CORNER
(TOWARDS TATE ST.)

12'-6"
SIDEWALK

← YORK STREET →
PAVED ~ PUBLIC 66' WIDE

A BETTER MAINE LLC

November 16, 2012

Dept. of Planning and Urban Development
Portland City Hall
389 Congress Street
Portland, Maine 04101

Re: Lessee at 227 York Street, Portland Maine

To Whom It May Concern:

As Manager of A BETTER MAINE LLC, owners of property located at 227 York Street, Portland, Maine, 04102, I certify that Neil Reiter, Principal of 227 RESTAURANT GROUP, has entered into a lease agreement for the above-referenced property, and therefore has the right to develop and make improvements at this property.

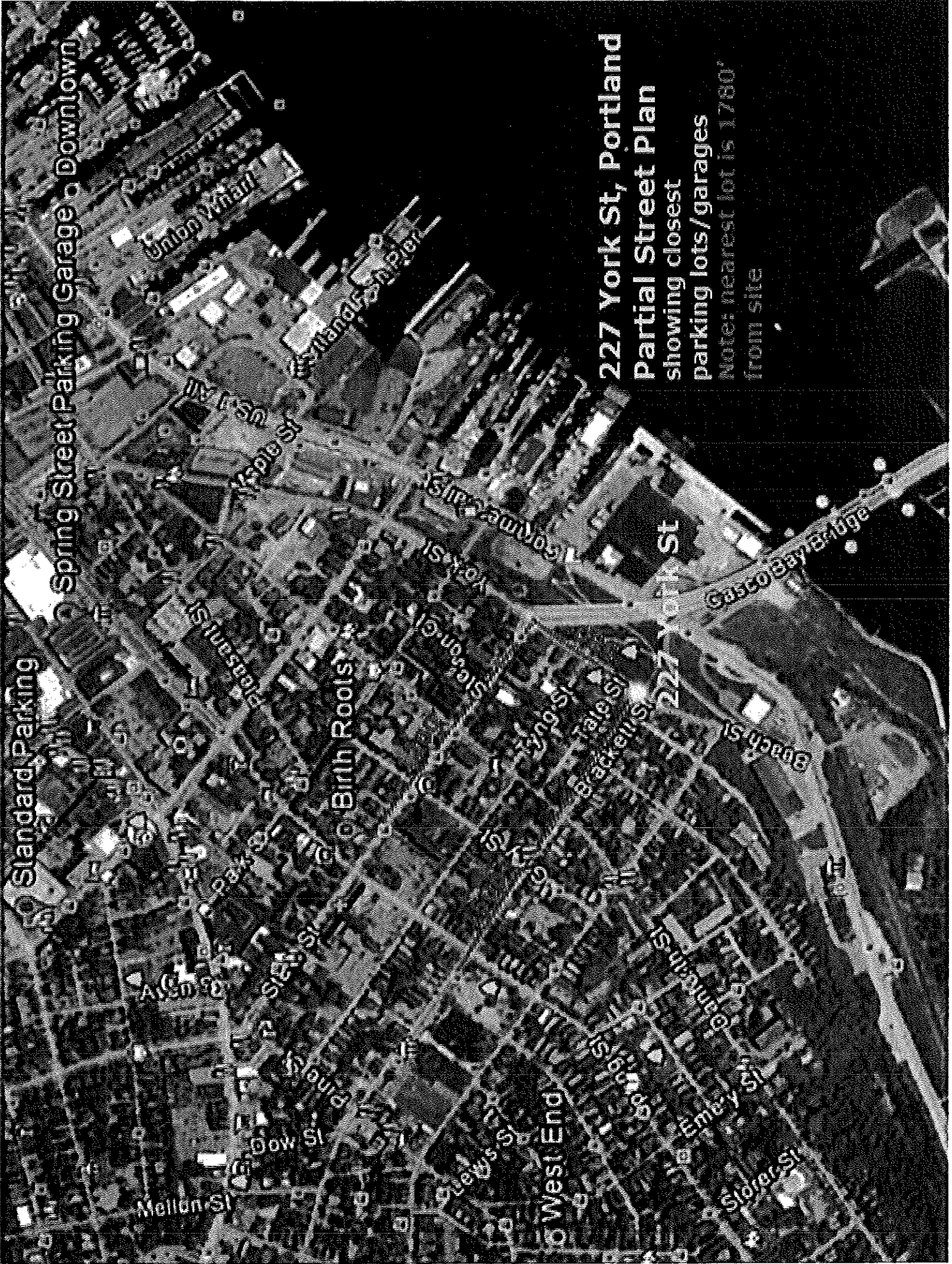
Sincerely,

DocuSigned by:

Tom Landry

62DAD978CA88470...

Tom Landry, Manager
A BETTER MAINE LLC



227 York St, Portland
Partial Street Plan
 showing closest
 parking lots/garages
 Note: nearest lot is 1700'
 from site

Standard Parking

Spring Street Parking Garage - Downtown

Mellan St

West End

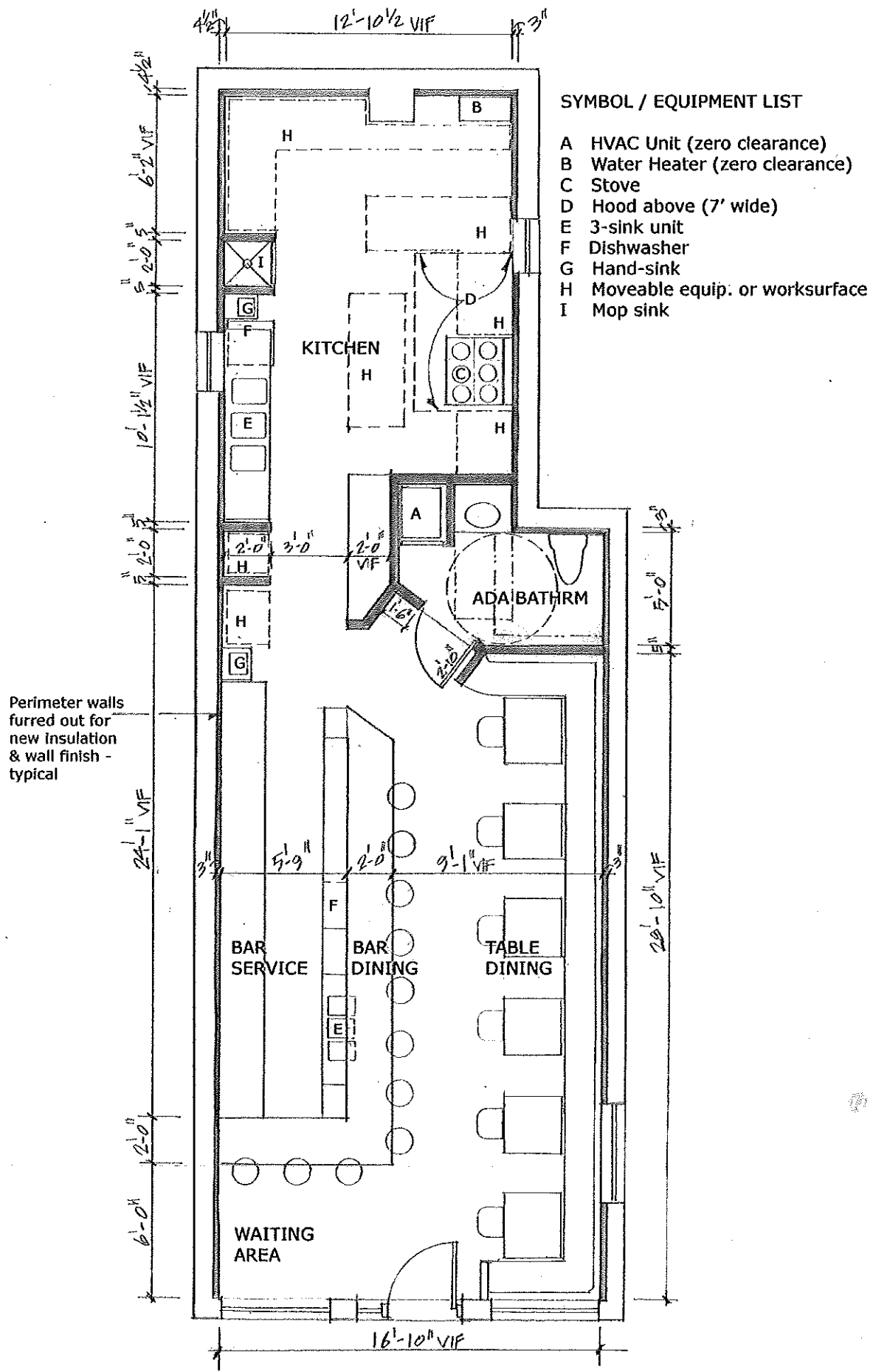
Birch Rowls

West End

York St

Gasco Bay Bridge

Storer St



- SYMBOL / EQUIPMENT LIST**
- A HVAC Unit (zero clearance)
 - B Water Heater (zero clearance)
 - C Stove
 - D Hood above (7' wide)
 - E 3-sink unit
 - F Dishwasher
 - G Hand-sink
 - H Moveable equip. or worksurface
 - I Mop sink

YORK ST. RESTAURANT / PROPOSED PLAN
 227 York Street, Portland Maine 11/19/12
 1/4"=1'-0" (@ 11x17) Reiter Architecture & Design



Residential floor

**Side yard of
231 York**

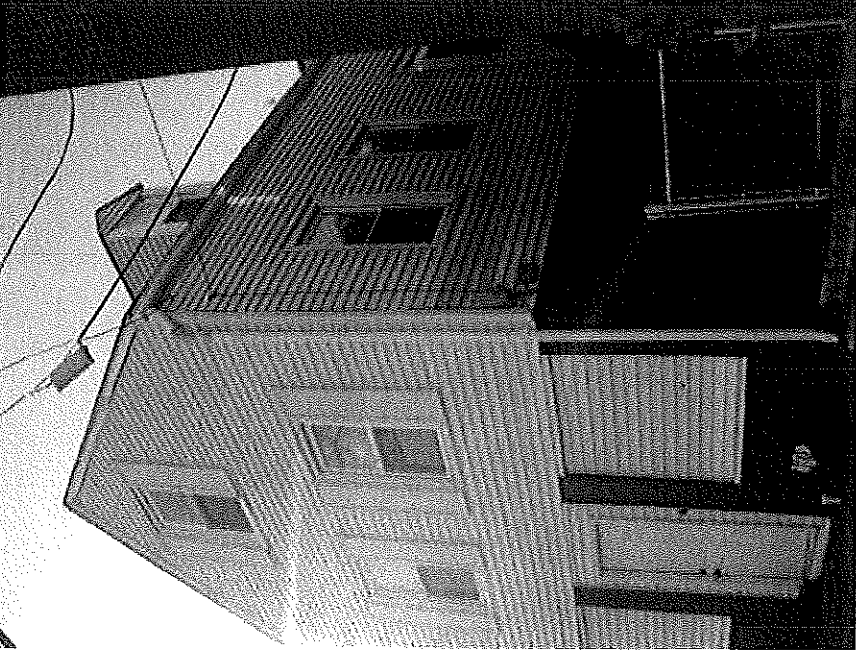
**boarded-
up window**

**ground
floor
entrance**

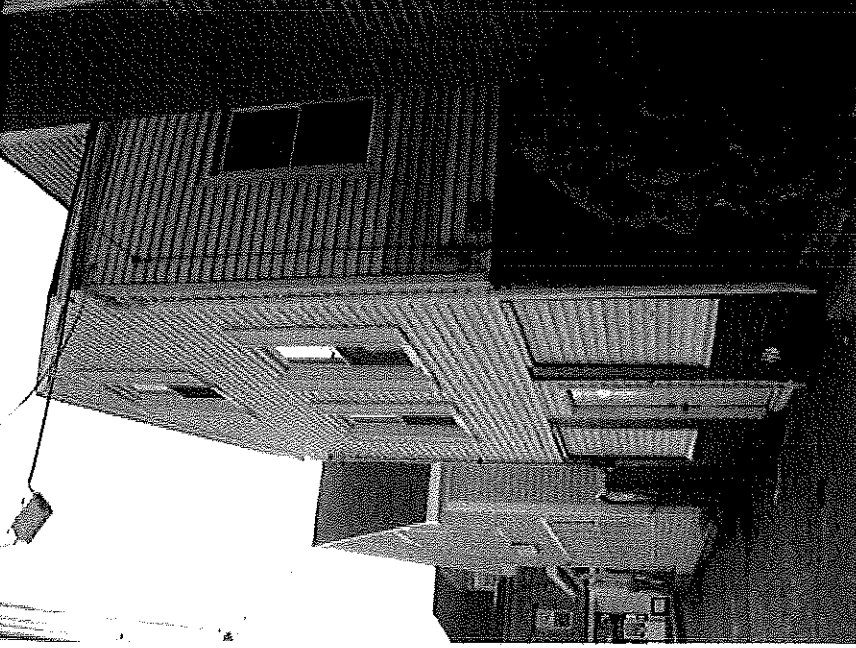
**boarded-
up window**

**Side yard/
resid. entry of
227 York**

**227 York Street, Portland, Maine
Existing Conditions November 2012**



Street Facade & Side-yard Entry



Sidewalk View (looking towards #231)



Side-yard Entry (to residential floor)

Existing Conditions Photos of 227 York Street November 2012