



item 2D

**CITY OF PORTLAND**

TO: ZONING CHAIR AND BOARD OF APPEALS

FROM: MARGE SCHMUCKAL, ZONING ADMINISTRATOR

SUBJECT: SECTION 14-436 BUILDING EXTENSIONS  
9 ADAMS STREET – PEAKS ISLAND - 084-F-012 – IR-2 ZONE

DATE: MAY 13, 2002

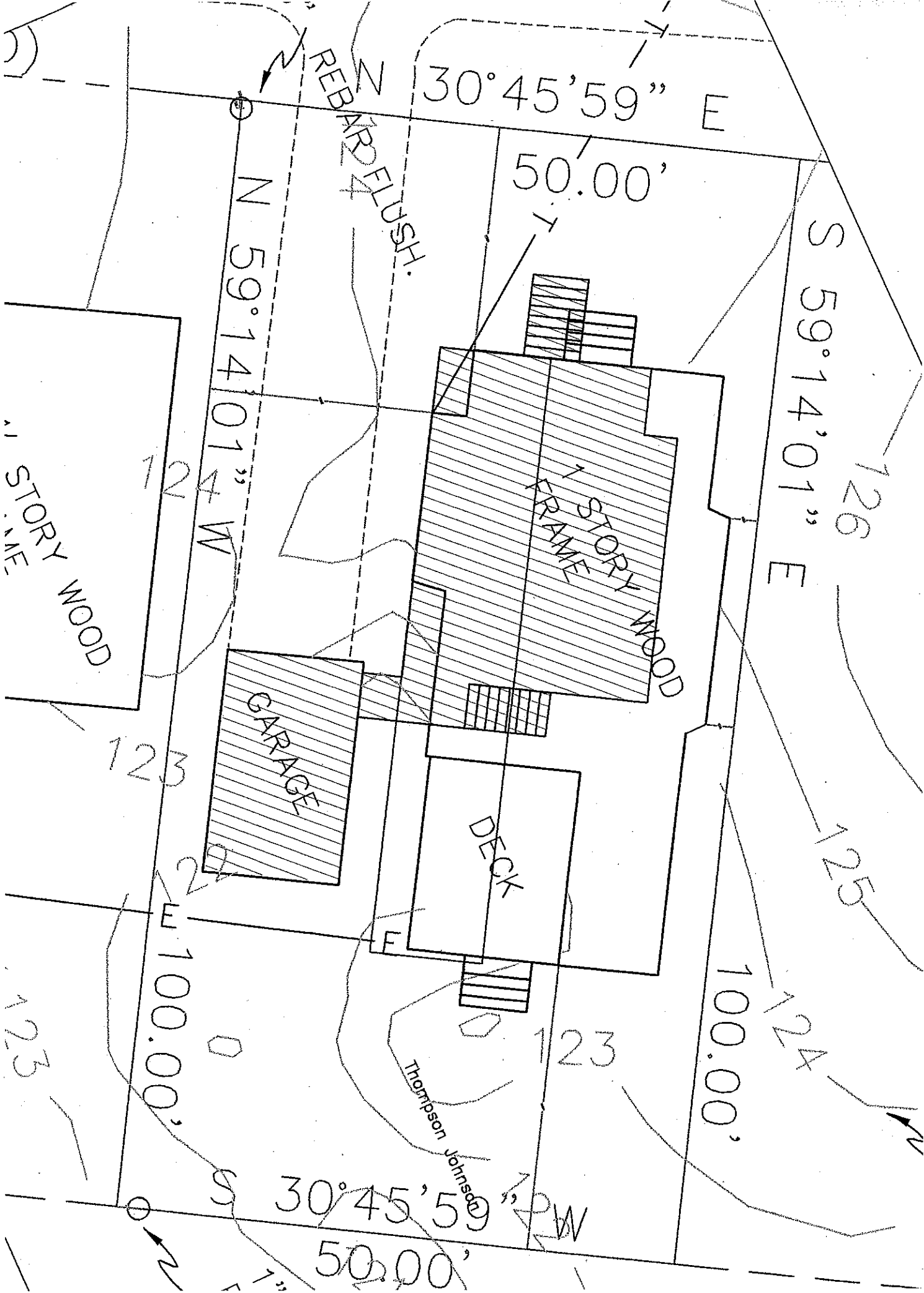
Section 14-436 allows legal, existing, nonconforming lots with legal nonconforming setbacks to expand. It is a limited expansion based upon the given situation of the existing property. There are two limiting factors involved in determining the allowable percentage of expansion. The first factor concerns the required land area per dwelling unit. And the second factor is whether the existing setbacks are currently being met.

This property is located within the IR-2 (Island Residence – 2) zone. The island zones were changed in 1985 from the same zones located on the mainland to the new island residence zones that are still present today. 9 Adams Street, P.I. appears to have been built in the early 1900's according to the Assessor's records. This single family and detached garage sits on a lot which is 5,000 square feet in land area. Currently the IR-2 zone requires a minimum land area of 20,000 square feet. This single family is legally nonconforming as to lot size. In the IR-2 zone, the required side yard setback is 20 feet and the required rear yard setback is 25 feet. The existing home is legally nonconforming as to both rear and side yard setbacks. Because both the land area per dwelling unit and the yard requirements are currently not being met, section 14-436 only allows a fifty (50) percent expansion limit based upon the first floor footprint.

The ordinance is very specific as to how this limited expansion is to be allowed. It states that, "the additional floor area shall be created in the uppermost floor by the use of dormer, turrets, or similar structures need to provided the minimum height required for habitable space, while preserving the existing roof configuration to the maximum extent possible." It does not allow a further expansion beyond that into another floor above the existing roof line. The owner contends that because the newly proposed third floor turret is setback the required 20 feet on the side yards, it is conforming to the ordinance setbacks. I believe that you must look at the entire structure and its setbacks, not individual portions of the structure. I also believe that section 14-

436 limits the allowed expansion. It does not state that you can also go up higher with another story if you meet the current setbacks. The ordinance is quite specific as to restricting the expansion upward. Therefore, I would not allow the expansion of the addition turret on the third floor under section 14-436.

Cc: Owners  
Charlie Lane, Corporation Counsel  
File



30°45'59" E

REBAR

AIR FLUSH.

50.00'

S 59°14'01" E

1 STORY WOOD

GARAGE

DECK

1 STORY WOOD FRAME

N 59°14'01" W

Thompson Johnson

100.00'

S 30°45'59" E

50.00'

126

125

124

123

123

123