



**Planning and Development Department
Zoning Board of Appeals
Conditional Use Appeal Application**

Applicant Information:

Aaron + Anne-Marie Davis
Name

Business Name

52 Ashmont St.

Address

Portland, ME 04103

207.650.4485

Telephone

Fax

Applicant's Right, Title or Interest in Subject Property:

Owners ; Joint Tenants (JTs)
(e.g. owner, purchaser, etc.):

Current Zoning Designation: R-5

Existing Use of Property:

Single - Family

Subject Property Information:

52 Ashmont St.

Property Address

125-H-009

Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

Name

Address

Telephone

Fax

Conditional Use Authorized by Section 14 - ~~391~~ 391

Type of Conditional Use Proposed:

TWO - Family

Standards:

Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines that:

- (a) There are unique or distinctive characteristics or effects associated with the proposed conditional use;
- (b) There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and
- (c) Such impact differs substantially from the impact which would normally occur from such a use in that zone.

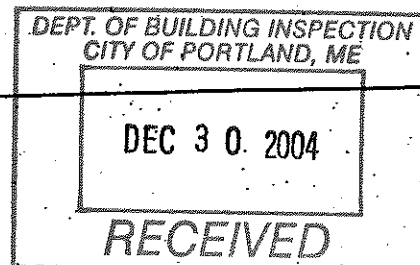
NOTE: If site plan approval is required, attach preliminary or final site plan.

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

Aaron Davis
[Signature]

Signature of Applicant

Date



December 28, 2004

Zoning Board of Appeals
Planning and Development Dept.
Portland City Hall
389 Congress Street
Portland, ME 04101

Dear Members of the Zoning Board of Appeals;

Two years ago (December 2002), my husband and I purchased a single-family home that had historically been used as a two-family. The plumbing remained in tact; the heating system was zoned appropriately; there was a note on the basement wall reading "electrical box 2". As a young couple, we saw this as a fixer-upper opportunity that would provide housing as well as additional income, and allow us to continue living in Portland (as housing costs are high). We applied for a change of use permit and were denied on February 11, 2003 (denied because new zoning regulations require 3000 ft² *per* dwelling unit).

Through much legwork, the City Council changed a city ordinance (Legalization of Nonconforming Dwelling Units section 14-391) which would remove the land requirement for homes that were historically multi-units. On May 26, 2004, we filed for "legalization of nonconforming dwelling units" under this newly revised section. A mailing was sent to our neighbors to gauge opposition. One neighbor sent a letter in opposition, regarding parking. We met with the neighbor and showed our ample parking situation; the neighbor was more than satisfied and sent an additional letter to recant his objection.

Zoning Board Administrator, Marge Schmuckal, mailed a letter on June 24th of this year, stating that we were still denied. We would need, she said, proof that our home was used as a two-family *originally*. Unfortunately, when our home was constructed in 1874, it was at a different street address in the town of Deering. That paperwork, we're told, has been lost.

We bought the home on 52 Ashmont Street in an attempt to restore it to it's two-unit status (we have permits from 1945, 1946, and 1951 showing it as a two-unit), as well as to maintain our status as Portland residents. The home is completely set up as a two-unit dwelling, with proper entrances and exits, plumbing, heating, and electrical systems. From our research, 52 Ashmont Street was never *legally* changed from a two-family to a single family home.

We are asking to meet with the Zoning Board of Appeals to state our case. Our initial application was rejected due to the "land size issue." That issue is no more.

Please see our enclosed application.

Thank you,

Anne & Aaron Davis, JTS.
52 Ashmont Street
Portland, Maine 04103

MORTGAGE LOAN INSPECTION

Cumberland Title Company

P.O. Box 4843

Portland, ME 04112

1-207-774-1773

1-207-774-2278 (fax)

CL No.: 15230

Job No.: ATC03-63.

Date: 12/11/2002

County: Cumberland

Plan Bk. 7 Pg. 24

Lot(S): portion of 30

Scale: 1" = 20'

Client(s): Anne Marie Davis and
Aaron E. Davis

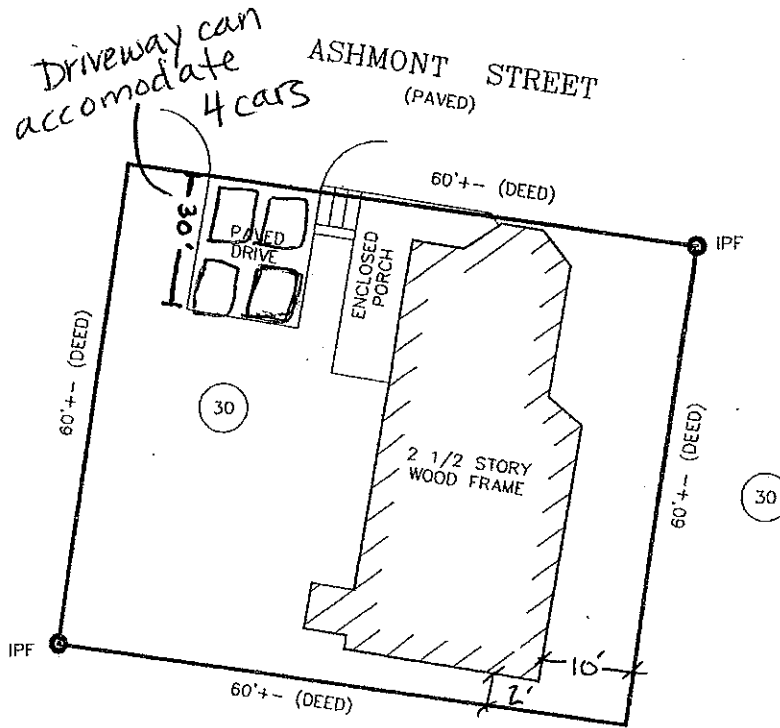
St. No.: 52

Street: Ashmont St.

Town: Portland, ME

Source Deed Bk. 4973 Pg. 233

NOTE: A FULL BOUNDARY SURVEY IS
RECOMMENDED TO VERIFY
BOUNDARY AND ENCROACHMENTS
AS SHOWN.

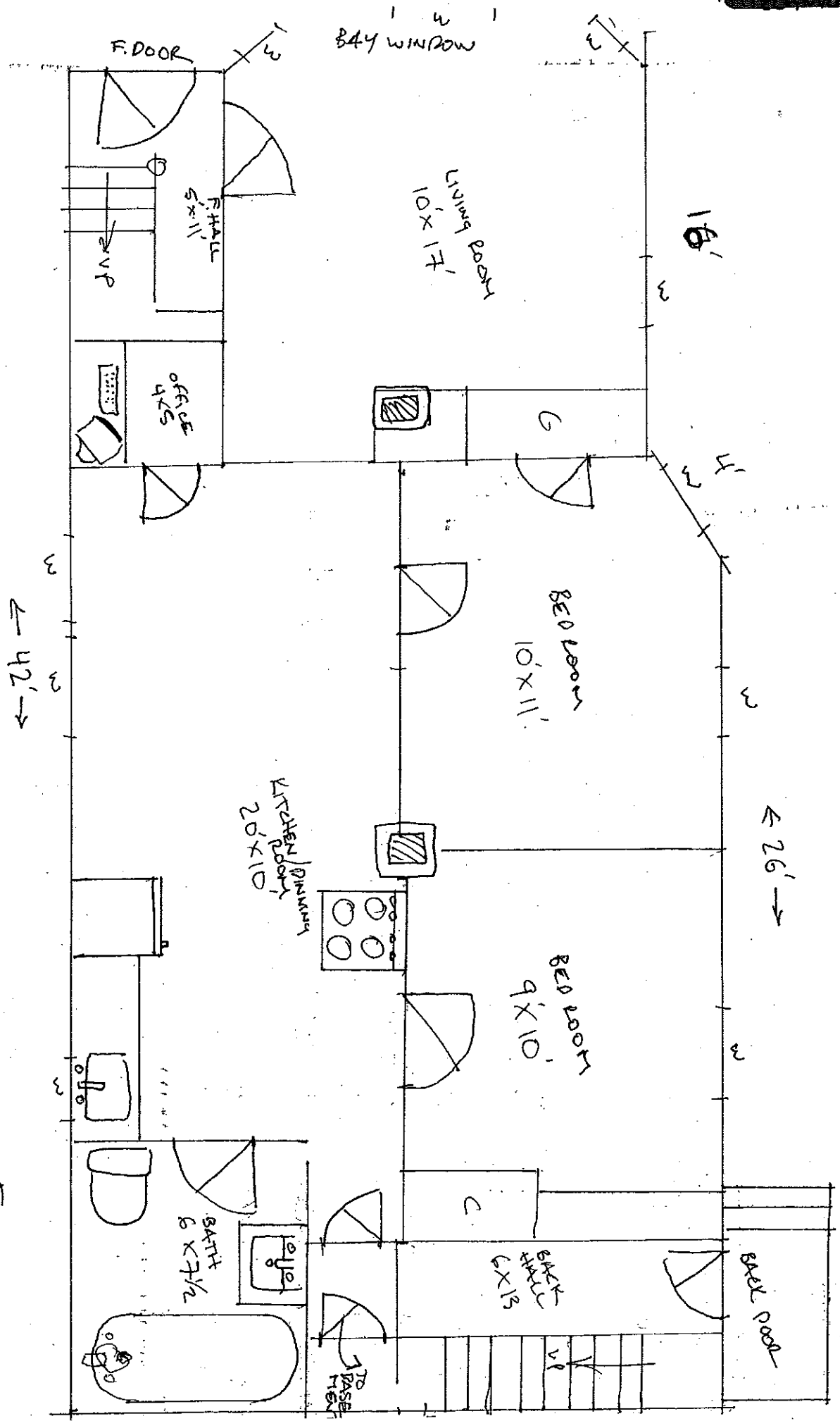


NOTE: THIS IS NOT A BOUNDARY SURVEY. This plan is made for the purposes of determining that the improvements are within the apparent boundary lines. **THE PREPARER IS NOT LIABLE FOR ANY OTHER USE BY ANY OTHER PERSON OR ENTITY.**

CERTIFICATION: I hereby certify to *Banknorth, N. A.*, and their mortgage title insurer that based upon inspection made with reasonable certainty, that:

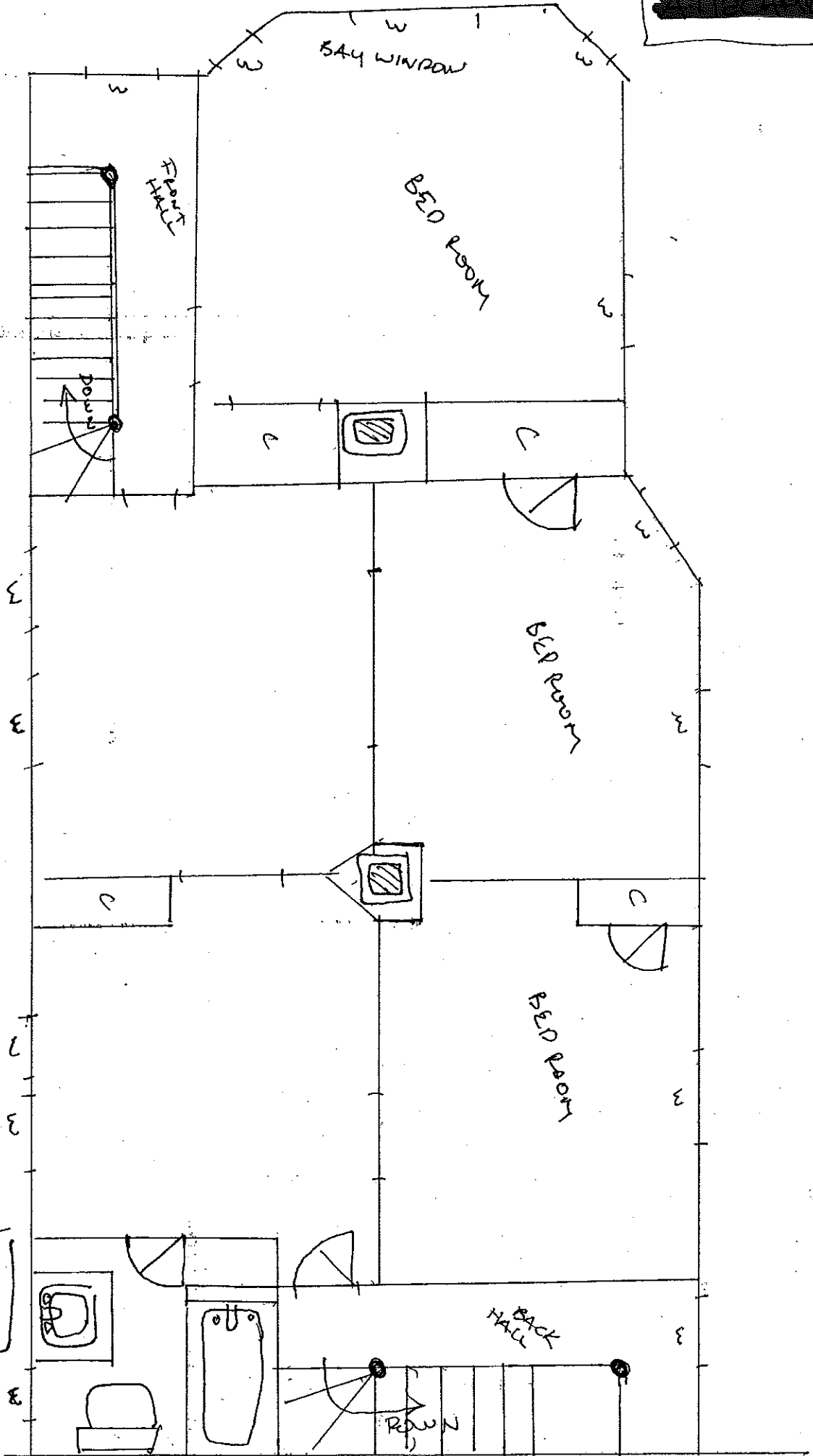
-) this plan was made from an inspection of the site.
-) there **ARE NO** apparent violations of municipal ordinances regarding building setbacks in effect at time of construction.
-) the principal structure(s) located on the premises **ARE NOT** in a flood hazard zone as delineated on the flood maps used by the Federal Emergency Management Agency.

Barbara M. Goodwin



1st Floor
 52 Ashmont St
 DORCHESTER, MA
 Possible 1st Unit

125-H-009

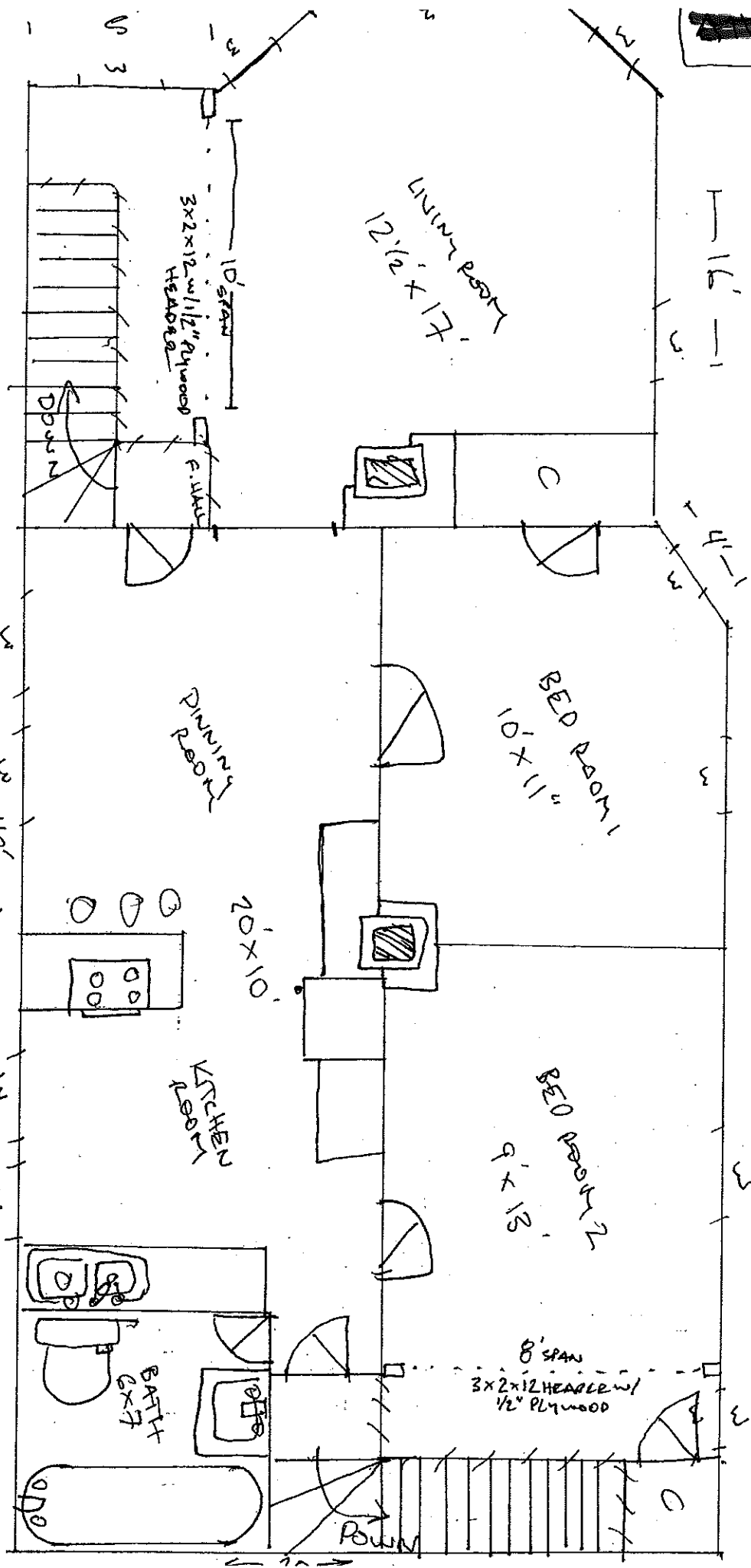


2ND FLOOR
 S2 ASHMOOT ST.
 PORTLAND, ME

125-H-009

POPOSEA

125-H-009



□ 3/4" 2x12 Header w/ 1/2" Plywood
 ▬ NEW WALL
 ▬ NON-LOAD BEARING

ACCT'd Restored
 2nd Floor

S2 ASHPOINT 8th
 PORTLAND, ME
 Restored 2nd Floor unit



← 26' →

16'

11'

11'

5'

3'

3'

3'

3'

3'

3'

3'

3'

3'

3'

3'

3'

3'

49'

REN

3x2x12 w/ 1/2" Plywood Header

DINING ROOM

KITCHEN ROOM

BATH 6x7

LIVING ROOM
12 1/2 x 17

BED ROOM
10' x 11'

BED ROOM
9' x 13'

8' span
3x2x12 Header w/
1/2" Plywood

DOWN



SCALE 1 INCH = 50 FT
 RETRACED 4-3-57

CITY OF PORTLAND
 ASSESSOR'S PLAN
 SCALE 1" = 50'

№125

SHEET 129-D

SHEET 129-D

SHEET 128-A

SHEET 129-A

SHEET 129-B

SHEET 129-B

SHEET 128-B

STREET EAST

LONGFELLOW

PROSPECT

ASHMONT

COYLE

LINCOLN

FOREST

AVENUE

REVERE

WOODFORDS

SHEET 129-A

SHEET 129-D

SHEET 128-A

SHEET 129-A

SHEET 129-B

SHEET 129-B

SHEET 128-B

STREET EAST

LONGFELLOW

PROSPECT

ASHMONT

COYLE

LINCOLN

FOREST

AVENUE

REVERE

WOODFORDS

SHEET 129-A

SHEET 129-D

SHEET 128-A

SHEET 129-A

SHEET 129-B

SHEET 129-B

SHEET 128-B

STREET EAST

LONGFELLOW

PROSPECT

ASHMONT

COYLE

LINCOLN

FOREST

AVENUE

REVERE

WOODFORDS

SHEET 129-A

SHEET 129-D

SHEET 128-A

SHEET 129-A

SHEET 129-B

SHEET 129-B

SHEET 128-B

STREET EAST

LONGFELLOW

PROSPECT

ASHMONT

COYLE

LINCOLN

FOREST

AVENUE

REVERE

WOODFORDS

SHEET 129-A

SHEET 129-D



Warranty Deed

(Maine Statutory Short Form)

Eleanor Kessler of Portland, Maine, for consideration paid, grants to **Anne Marie Davis and Aaron E. Davis** as Joint Tenants, with a mailing address of 13 Howard Street #1, Portland, Maine 04101 with WARRANTY COVENANTS, the following described real property situated at **52 Ashmont Street, Portland, Cumberland County, Maine**

A certain lot or parcel of land with the buildings thereon, situated in said Portland, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises described in a deed from Robert J. Mack and Ann R. Mack to Solomon Kessler and Eleanor Kessler, dated March 12, 1962, and recorded in the Cumberland County Registry of Deeds in Book 4973, Page 233. The said Solomon Kessler died December 9, 1999, leaving Eleanor Kessler surviving Joint Tenant.

Witness my hand this 30th day of December, 2002.



Witness



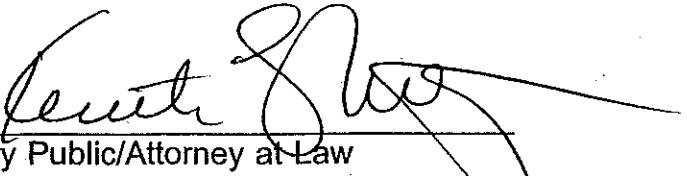
Eleanor Kessler

State of Maine
County of Cumberland, ss

December 30, 2002

Personally appeared the above named Eleanor Kessler and acknowledged the foregoing instrument to be her free act and deed.

Before me,



Notary Public/Attorney at Law

Printed Name:

**KENNETH E. SNITGER
MAINE ATTORNEY AT LAW**

Comm. Exp: