



CITY OF PORTLAND

TO: WILLIAM HALL, CHAIR AND MEMBERS OF THE BOARD OF APPEALS

FROM:  MARGE SCHMUCKAL, ZONING ADMINISTRATOR

SUBJECT: 52 ASHMONT STREET – 125-H-009 – R-5 ZONE

DATE: FEBRUARY 10, 2005

This memo is intended to give a little more background history on this owner's request before the Board.

On 1/27/2003 Aaron and Anne Davis submitted an application to change the use of their property from a single family into a two family. Their permit was denied by a letter dated 2/11/03 because the new use did not meet the dimensional requirements of the R-5 zone in which the property is located. Mr. and Mrs. Davis did not exercise their right to appeal at that time.

In March 2004 a new ordinance (section 14-391) went into effect that allows a process to legalize nonconforming (i.e. illegal) dwelling units within the City. This new ordinance also allows new dwelling unit(s) to be created within structures which were originally designed and built to accommodate more than the number of units presently in use.

On 5/27/04 Aaron and Anne Davis submitted an application to change the use of their property from a single family into a two family under section 14-391 asserting that their structure was designed and built as a two family. Their permit was denied partially because they did not submit any documentation that this structure was designed and built as a two family. They could show that it had been a two family during times in the past, but they could not show that it had been designed and built as a two family. The earliest Assessors records from 1924 show that the structure at that time was a single family with 10 rooms. Mr. and Mrs. Davis did not exercise their right to appeal my decision.

On 12/30/04 Mr. and Mrs. Davis again submitted an application to change the use of their property from a single family into a two family under section 14-391 asserting that their structure was designed and built as a two family. Their permit was denied because they did not submit documentation that this structure was designed and built as a two family. Again, they only

showed that at times in the past, this structure has been a two family. The conditional use appeal is before the Board because Mr. and Mrs. Davis are exercising their right to appeal.

There is documentation within our files that Mr. and Mrs. Davis have applied for permits as a single family, including their application in 2003 to change the use from a single family to a two family. Apparently, they brought the property as a single family and believed it to be a single family at that time.

I have attached copies of documentation that should be relevant to the Board.

Zoning Division
Marge Schmuckal
Zoning Administrator



Department of Planning & Development
Lee Urban, Director

CITY OF PORTLAND

February 11, 2003

Aaron & Anne Davis
52 Ashmont Street
Portland, ME 04103

RE: 52 Ashmont Street – 125-H-009 - R-5 zone

Dear Aaron & Anne,

I am in receipt of your permit application to change the use from a single family to a two family dwelling. Your permit is being denied because this property, which is located within an R-5 residential zone, is not meeting the requirements set forth.

Your property is 3,000 square feet in lot size according to the Assessor's records. Section 14-120 requires 3,000 square feet of land area per dwelling unit, for a required total lot size of 6,000 square feet. Your lot is deficient in size to allow a change of use to a two (2) unit. Also, your plans did not show the actual allowable parking. It only shows a driveway. This office would need to see the number of specific, off-street parking spaces that would be provided.

You have the right to appeal the ordinance requirements. Please note that variance appeals are very, very difficult to have granted by the Board of Appeals. If you wish to exercise your right to appeal, you have thirty days from the date of this letter in which to do so. Please contact this office for the necessary paperwork in which to file an appeal.

Very truly yours,

Marge Schmuckal
Zoning Administrator

CC: Jeanie Bourke, Code Enforcement Officer
File

Zoning Division
Marge Schmuckal
Zoning Administrator



Department of Planning & Development
Lee Urban, Director

CITY OF PORTLAND

June 24, 2004

Anne Marie & Aaron E. Davis
52 Ashmont Street
Portland, ME 04103

RE: 52 Ashmont Street – 125-H-009 – R-5 Zone – permit application #04-0694

Dear Anne & Aaron,

I am in receipt of your permit application requesting a change of use to add one new unit to the existing single family under the allowances of section 14-391 of the zoning ordinance. As you know, one of the requirements of this section of the ordinance is notification of property owners within 300 feet. Our notices went out on June 2, 2004. On June 11, 2004 this office received a written letter of opposition to your proposal. I have attached a copy of that letter.

Because of the received letter of opposition, by ordinance I can not approve your request. You now have thirty (30) days from the date of this letter in which to submit your application to the Zoning Board of Appeals for approval. Please contact this office for the necessary paperwork that is required in order to submit an appeal application.

I would also like to point out that section 14-391 states that you must show that the structure was **originally designed and built** to accommodate more than the number of units presently in use. Your submittal shows permit applications from our microfiche dated 1945 & 1951 stating that the use of the structure was two dwelling units. According to the Assessors records, this building was built in 1874. In an effort to try to determine the original use for this building, I researched the early Assessor's records. I have seen that the 1924 records show this building to be a single family with 10 rooms. You will need to show the Zoning Board of Appeals what the original use of this building was when it was constructed. That original use will be part of their decision making process. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

Marge Schmuckal, Zoning Administrator

Zoning Division
Marge Schmuckal
Zoning Administrator



Department of Planning & Development
Lee Urban, Director

CITY OF PORTLAND

January 31, 2005

Anne Marie & Aaron E. Davis
52 Ashmont Street
Portland, ME 04103

RE: 52 Ashmont Street – 125-H-009 – R-5 Zone – permit application #05-0004

Dear Anne & Aaron,

I am in receipt of your permit application requesting to add one new dwelling unit under Section 14-391 of Zoning Ordinance. Your permit is denied because you have not met the requirements of 14-391(c) which states that you must submit supporting information based on competent evidence, supported by public records showing that the structure in which the new unit is to be added was originally designed to accommodate more unit(s) than the number of such units presently in use. You have not submitted any supporting documentation showing that this building was originally designed to accommodate two dwelling units.

According to the Assessor's records, this building was built in 1874. The earliest records in the Assessor's office show that this building was a single family in 1924. You will need to show the Zoning Board of Appeals what the original use of this building was when it was constructed. That original use will be part of their decision making process.

Please note that your notices to neighbors within 300 feet of your property were sent out on January 14, 2005. As of this date I have had no letters in response to that mailing. Thomas Markley, the Code Enforcement Officer, has given me information that the new potential unit can be made to conform with the City's Housing Code. The NFPA Life Safety Code does not regulate single or two family dwellings. Prior to a Zoning Board of Appeals meeting, I will get a written statement from Lt. MacDougall on this issue.

You have thirty (30) days from the date of this letter in which to submit your application to the Zoning Board of Appeals for approval under conditional use appeal. It is my understanding that you have already submitted your paperwork and fee on this appeal.

Very truly yours,

Marge Schmuckal
Zoning Administrator

CC: file

City of Portland, Maine - Building or Use Permit Application

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 03-0058	Issue Date:	CBL: 125 H009001
-----------------------	-------------	---------------------

Location of Construction: 52 Ashmont St	Owner Name: Aaron & Ann Davis	Owner Address: 52 Ashmont St	Phone: 409-6413
Business Name: n/a	Contractor Name: n/a	Contractor Address: n/a Portland	Phone:
Lessee/Buyer's Name: n/a	Phone: n/a	Permit Type: Change of Use - Dwellings	Zone: R-5

Past Use: Single Family	Proposed Use: Single Family / Change of use; renovations on second floor to create 2 family	Permit Fee: \$133.00	Cost of Work: \$5,000.00	CEO District: 2
Proposed Project Description: Change of Use to create a two family home		FIRE DEPT: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	INSPECTION: Use Group: Type:	
		Signature:	Signature:	
PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)				
Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied				
Signature: Date:				

Permit Taken By: gg	Date Applied For: 01/27/2003	Zoning Approval		
1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules. 2. Building permits do not include plumbing, septic or electrical work. 3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..	Special Zone or Reviews <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> Date:	Zoning Appeal <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied Date:	Historic Preservation <input checked="" type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Date:	

PERMIT DENIED

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
------------------------	---------	------	-------

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE	DATE	PHONE
---	------	-------

(7)

All Purpose Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>52 ASHMON ST, PORTLAND</u>		
Total Square Footage of Proposed Structure <u>Existing 1610 sq</u>	Square Footage of Lot <u>3,000</u>	
Tax Assessor's Chart, Block & Lot Chart# <u>125</u> Block# <u>H</u> Lot# <u>009</u>	Owner: <u>ADON AND ANNE DAVIS</u>	Telephone: <u>409-6413</u>
Lessee/Buyer's Name (If Applicable)	Applicant name, address & telephone: <u>ADON DAVIS</u> <u>52 ASHMON ST.</u> <u>409-6413</u>	Cost Of Work: <u>\$5,000</u> APR. Fee: \$ <u>58.00</u>
Current use: <u>SINGLE FAMILY</u>	If the location is currently vacant, what was prior use: <u>N/A</u>	
Approximately how long has it been vacant: <u>N/A</u>	PERMIT DENIED <u>owes 75.00 for cold</u>	
Proposed use: <u>TWO FAMILY</u>	Project description: <u>SEE OPPOSITE SIDE OF THIS PAGE</u> <u>RENOVATIONS ON 2 FLOORS TO CREATE A 2 FAMILY CHANGE OF</u>	
Contractor's name, address & telephone: <u>OWNER</u> <u>USE</u>		
Who should we contact when the permit is ready: <u>OWNER</u>		
Mailing address: <u>52 ASHMON ST PORTLAND ME</u> <u>04103</u>		
We will contact you by phone when the permit is ready. You must come in and pick up the permit and review the requirements before starting any work, with a Plan Reviewer. A stop work order will be issued and a \$100.00 fee if any work starts before the permit is picked up. PHONE: <u>409-6413</u>		

IF THE REQUIRED INFORMATION IS NOT INCLUDED IN THE SUBMISSIONS THE PERMIT WILL BE AUTOMATICALLY DENIED AT THE DISCRETION OF THE BUILDING/PLANNING DEPARTMENT, WE MAY REQUIRE ADDITIONAL INFORMATION IN ORDER TO APPROVE THIS PERMIT.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant: [Signature] Date: 1/27/03

This is NOT a permit, you may not commence ANY work until the permit is issued.
If you are in a Historic District you may be subject to additional permitting and fees with the Planning Department on the 4th floor of City Hall

PERMIT ISSUED

City of Portland, Maine - Building or Use Permit Application
389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 03-0181	Issue Date: MAR 12 2003	CBL: 125 H009001
-----------------------	----------------------------	---------------------

Location of Construction: 52 Ashmont St	Owner Name: Davis Anne Marie &	Owner Address: 52 Ashmont St CITY OF PORTLAND	Phone: 409-6413
Business Name:	Contractor Name: self	Contractor Address: Portland	Phone:
Lessee/Buyer's Name	Phone:	Permit Type: Alterations - Dwellings	Zone: R-5
Past Use: Single Family	Proposed Use: Single Family	Permit Fee:	Cost of Work: \$0.00
Proposed Project Description: Interior renovations to make open floor plan, open up enclosed front porch		FIRE DEPT: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	INSPECTION: Use Group: R3 Type: SB BOCA 1999 Signature: JMB 3/12/03
		PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Signature: _____ Date: _____	

Permit Taken By: jmb	Date Applied For: 03/12/2003	Zoning Approval		
1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules. 2. Building permits do not include plumbing, septic or electrical work. 3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..	Special Zone or Reviews <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> Date: 3/12/03 JMB	Zoning Appeal <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied Date:	Historic Preservation <input checked="" type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Date: 3/12/03	Approved w/conditions To remain Single Family

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE

9

City of Portland, Maine - Building or Use Permit

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 03-0181	Date Applied For: 03/12/2003	CBL: 125 H009001
-----------------------	---------------------------------	---------------------

Location of Construction: 52 Ashmont St	Owner Name: Davis Anne Marie &	Owner Address: 52 Ashmont St	Phone: () 409-6413
Business Name:	Contractor Name: self	Contractor Address: Portland	Phone:
Lessee/Buyer's Name	Phone:	Permit Type: Alterations - Dwellings	

Proposed Use: Single Family	Proposed Project Description: Interior renovations to make open floor plan, open up enclosed front porch
--------------------------------	---

Dept: Zoning Status: Approved with Conditions Reviewer: Jeanine Bourke Approval Date: 03/12/2003
Ok to Issue:

- Note:**
- 1) This is NOT an approval for an additional dwelling unit. You SHALL NOT add any additional kitchen equipment including, but not limited to items such as stoves, microwaves, refrigerators, or kitchen sinks, etc. Without special approvals.
 - 2) This property shall remain a single family dwelling. Any change of use shall require a separate permit application for review and approval. As stated in the letter dated 2/11/03, the permit #03-0058 to change the use from a single family to a two family was DENIED, due to deficient lot size. This permit is approved ONLY for interior renovations and shall not result in the addition of a second unit.
 - 3) This permit is being approved on the basis of plans submitted. Any deviations shall require a separate approval before starting that work.

Dept: Building Status: Approved with Conditions Reviewer: Jeanine Bourke Approval Date: 03/12/2003
Ok to Issue:

- Note:**
- 1) Separate permits are required for any electrical or plumbing work.
 - 2) Application approval based upon information provided by applicant. Any deviation from approved plans requires separate review and approval prior to work.

10

All Purpose Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>52 ASHMONT ST. PORTLAND</u>		
Total Square Footage of Proposed Structure <u>Interior 1st & 2nd Fl Renovations</u>	Square Footage of Lot <u>3000</u>	
Tax Assessor's Chart, Block & Lot Chart# <u>125</u> Block# <u>H</u> Lot# <u>009</u>	Owner: <u>ASARON ANNE DAVIS</u>	Telephone: <u>(207) 409-6413</u>
Lessee/Buyer's Name (if Applicable)	Applicant name, address & telephone: <u>SAMM</u>	Cost Of Work: \$ <u>4000</u> Fee: \$ <u>51.00</u>
Current use: <u>SINGLE FAMILY</u>		
If the location is currently vacant, what was prior use: <u>N/A</u>		
Approximately how long has it been vacant: <u>N/A</u>		
Proposed use: <u>SAMM</u>		
Project description: <u>RENOVATION, FOR FUTURE DETAILS REFERED P.S.</u>		
Contractor's name, address & telephone: <u>OWNER</u>		
Who should we contact when the permit is ready: <u>OWNER</u>		
Mailing address: <u>52 ASHMONT ST PORTLAND, ME 04103</u>		
We will contact you by phone when the permit is ready. You must come in and pick up the permit and review the requirements before starting any work, with a Plan Reviewer. A stop work order will be issued and a \$100.00 fee if any work starts before the permit is picked up. PHONE:		

IF THE REQUIRED INFORMATION IS NOT INCLUDED IN THE SUBMISSIONS THE PERMIT WILL BE AUTOMATICALLY DENIED AT THE DISCRETION OF THE BUILDING/PLANNING DEPARTMENT, WE MAY REQUIRE ADDITIONAL INFORMATION IN ORDER TO APPROVE THIS PERMIT.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant: [Signature] Date: 3/11/03

This is NOT a permit, you may not commence ANY work until the permit is issued.
If you are in a Historic District you may be subject to additional permitting and fees with the Planning Department on the 4th floor of City Hall



PERMIT ISSUED

City of Portland, Maine - Building or Use Permit Application
 389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 03-0445	Issue Date: MAY 13 2003	CBL: 125 H009001
-----------------------	-----------------------------------	---------------------

Location of Construction: 52 Ashmont St	Owner Name: Davis Anne Marie &	Owner Address: 52 Ashmont St CITY OF PORTLAND	Phone: 409-0636
Business Name:	Contractor Name: Applicant	Contractor Address: Portland	Phone:
Lessee/Buyer's Name	Phone:	Permit Type: Amendment to Single Family	Zone: R-5

Past Use: Single Family	Proposed Use: Single Family	Permit Fee: \$30.00	Cost of Work: \$30.00	CEO District: 2
Proposed Project Description: Amendment to Permit # 030181/Addition of Walls and Doorway/Dining Room		FIRE DEPT: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	INSPECTION: Use Group: R3 Type: SB Signature: JMB 5/12/03	

Signature:	Signature: JMB 5/12/03
PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)	
Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied	
Signature:	Date:

Permit Taken By: gad	Date Applied For: 05/05/2003	Zoning Approval		
-------------------------	---------------------------------	------------------------	--	--

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules. 2. Building permits do not include plumbing, septic or electrical work. 3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..	Special Zone or Reviews <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> Date: 5/12/03 JMB	Zoning Appeal <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Historic Preservation <input checked="" type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Date: JMB
	approved		

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE

12

03-0445

All Purpose Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>52 ASHMONT ST PORTLAND</u>		
Total Square Footage of Proposed Structure	Square Footage of Lot	
Tax Assessor's Chart, Block & Lot Chart# <u>125</u> Block# <u>H</u> Lot# <u>009</u>	Owner: <u>ARON/ANNE DAVIS</u>	Telephone: <u>409-0636</u>
Lessee/Buyer's Name (if Applicable)	Applicant name, address & telephone:	Cost Of Work: \$ <u>30.00</u> Fee: \$
Current use: <u>SINGLE FAMILY</u>		
If the location is currently vacant, what was prior use: _____		
Approximately how long has it been vacant: _____		
Proposed use: <u>AMENDMENT TO PERMIT # 03081</u>		
Project description: <u>(ADD ON) WALL W/ DOORWAY BETWEEN DINING ROOM AND KITCHEN WITH TRAMPING IN CEILING IN DINING ROOM (1st FLOOR)</u>		
Contractor's name, address & telephone:		
Who should we contact when the permit is ready: <u>ARON DAVIS / 409-0636</u>		
Mailing address: <u>xx</u>		
We will contact you by phone when the permit is ready. You must come in and pick up the permit and review the requirements before starting any work, with a Plan Reviewer. A stop work order will be issued and a \$100.00 fee if any work starts before the permit is picked up. PHONE:		

IF THE REQUIRED INFORMATION IS NOT INCLUDED IN THE SUBMISSIONS THE PERMIT WILL BE AUTOMATICALLY DENIED AT THE DISCRETION OF THE BUILDING/PLANNING DEPARTMENT, WE MAY REQUIRE ADDITIONAL INFORMATION IN ORDER TO APPROVE THIS PERMIT.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant: <u>[Signature]</u>	Date: <u>5/4/03</u>
--	---------------------

This is NOT a permit, you may not commence ANY work until the permit is issued. If you are in a Historic District you may be subject to additional permitting and fees with the Planning Department on the 4th floor of City Hall

13

Zoning Division
Marge Schmuckal
Zoning Administrator

Department of Planning & Development
Lee Urban, Director



52 Ashmont St

CITY OF PORTLAND

PAGE 2

APPLICATION FOR
LEGALIZATION OF NONCONFORMING DWELLING UNITS

For Office Use Only:

Notices to owners of properties situated within 300 feet sent on: to Gayle 1/12/05
mailed 1/14/05

City Housing Ordinance compliance received on: to MRP
given 1/12/05
by Thomas Markley 1/20/05

City NFPA compliance received on: given 1/12/05
by Lt MacDougall 1/31/05

Is ZBA action required? yes

has not shown that this building was
built for a two family - The assessors 1924
cards show that it was a single family at
that time

by 1/24/05 no written notices received

14



CITY OF PORTLAND

**NFPA LIFE SAFETY CODE – FIRE PREVENTION CODE
DWELLING UNIT COMPLIANCE**

Section 14-391 of the Land Use Ordinance allows illegal nonconforming dwelling units to become legalized thru a given process. Part of this process is that the dwelling unit(s) that are requested to be legalized must comply or be able to comply with the NFPA Life Safety Code – Fire Prevention Code PRIOR to issuing the requested permit.

Please return this form to the Zoning Administrator (Marge Schmuckal) as to compliance or the ability to comply with these codes.

Location: 52 Ashmont Street

Owner: Aaron & ANNE DAVIS

Address of Owner: 52 Ashmont St **Telephone:** 650-4485

Applicant information if different than above: (Last year you also inspected this building under a previous application that was not followed thru)

Current number of legal units: one (1)

Number of units to be legalized: one (1)
TOTAL; two (2)

Comments of approval or disapproval (list any and all conditions):

Does not apply to NFPA standards

Signature: [Handwritten Signature] **Date:** 1/31/05

(15) 1/12/05



CITY OF PORTLAND

CITY OF PORTLAND HOUSING CODE
DWELLING UNIT COMPLIANCE

Section 14-391 of the Land Use Ordinance allows illegal nonconforming dwelling units to become legalized thru a given process. Part of this process is that the dwelling unit(s) that are requested to be legalized must comply or be able to comply with the City of Portland's Housing Code PRIOR to issuing the requested permit.

Please return this form to the Zoning Administrator (Marge Schmuckal) as to compliance or the ability to comply with these codes.

Location: 52 Ashmont St.

Owner: Aaron & Anne Davis

Address of Owner: 52 Ashmont St **Telephone:** 650-4485

Applicant information if different than above: last year this bldg was inspected under a previous application that was never followed thru

Current number of legal units: one (1)

Number of units to be legalized: one (1)
total: two (2)

Comments of approval or disapproval (list any and all conditions): Disapprove 01/20/05
(Appears to be able to be approved when construction finished)
The second floor is under construction and cannot be inspected for housing requirements. There are two exits from 1st + 2nd floor + hardwired smoke detectors are being put in. There is a building permit pending for new construction.

Signature: Thomas M. Mackay, CEO **Date:** 01/20/05

16 1/12/05



CITY OF PORTLAND

**APPLICATION FOR
LEGALIZATION OF NONCONFORMING DWELLING UNITS**

Section 14-391 – In effect March 24, 2004

Applies to: Dwelling Units (not rooming units) that are currently recognized by the City as illegal or nonconforming, and located within the following zones: R-3, R-4, R-5, R-6 or R-7; or the B-1, B-1(b), B-2, B-2(b) or B-3 Zones.

Fee: \$300.00 for each dwelling unit to be legalized by the applicant. When a permit is able to be issued, there is a requirement for a fee of \$75.00 for each certificate of occupancy required for each unit to be legalized.

Required Submissions:

1. A plot plan, drawn to scale, showing building(s), parking, easements, dumpsters, fencing, public ways and any other significant feature.
2. A dimensioned floor plan for every unit in the dwelling, whether or not it is the subject of the application.
3. The applicant shall supply competent evidence, such as assessor's records, purchase and sale agreements, affidavits, other public records and such, that:
 - a. The nonconforming dwelling unit(s) existed as of 4/1/95.
 - b. Or that the structure was originally designed and built to accommodate more than the number of units presently in use.
 - c. The applicant neither constructed, nor established the nonconforming dwelling unit(s).
4. The nonconforming dwelling unit(s) must comply or be able to comply with the National Fire Protection Association Life Safety Code – Fire Prevention Code PRIOR to the issuance of the requested permit.
5. The nonconforming dwelling unit(s) must comply or be able to comply with the City's Housing Code PRIOR to the issuance of the requested permit.

Notification requirements: Every application is subject to notifications to owners of abutting properties as well as owners of properties situated within 300 feet of the structure with the request to legalize nonconforming dwelling unit(s). Any objection must be submitted in writing to the Zoning Administrator within ten (10) days of the notice sent to them.



The Zoning Administrator may only approve such an application if:

1. The evidence presented by the application satisfies all of the requirements, and
2. Both the office of Inspection Services and the Fire Prevention Bureau have certified that the nonconforming unit(s) conform with the applicable codes, and
3. No abutter or person entitled to notice has requested that the application be referred to the Zoning Board of Appeals for approval as a substitute in place of the Zoning Administrator.

Action required by the Zoning Board of Appeals:

1. When the Zoning Administrator can not approve an application based on submitted , or lack of submitted evidence.
2. When a timely objection is filed by a qualified person.
3. When either of the above #1 and/or #2 occurs, the applicant/owner of the submitted legalization request has thirty (30) days from the decision of the Zoning Administrator or objection to file a Conditional Use Appeal to the Zoning Board of Appeals. All current fees for an appeal application and ZBA notifications will apply in addition to all other fees. The Zoning Board fees shall be paid by the applicant/owner of the submitted legalization request.

Neither the Zoning Administrator nor the ZBA shall apply the dimensional or parking requirements while making a final decision on such an application.

When and if a permit is approved and issued for legalization of dwelling unit(s), the final step of approval is the issuance of a Certificate of Occupancy. This is a separate fee of \$75 per requested unit to be legalized. Before a Certificate of Occupancy is issued, all Housing and Fire Code, and/or Zoning Board requirements shall be met in full.

A building which is nonconforming as to the requirements for off-street loading shall not be enlarged or added to, unless off-street loading is provided sufficient to satisfy the requirements of this article for both the addition or enlargement and the original building or structure.

(Code 1968, §.602.17.J)

Sec. 14-391. Nonconformity as to number of dwelling units.

- (a) Purpose. The purpose of this provision is to establish a process whereby certain dwellings which contain more dwelling units than the number permitted by the applicable provisions of the Land Use Code may be recognized as legal, nonconforming uses. This provision shall not apply to rooming units.
- (b) Approval by Zoning Administrator.
- (1) Application. Application for validation of such non-conforming dwelling units shall be on a form provided by the Division of Housing and Neighborhood Services, Inspection Services Office. The application fee will be \$300.00 for each dwelling unit which is the subject of the application, and will be accompanied by: (i) a plan, drawn to scale, which shows the location of the building(s) on the lot, parking, easements, dumpsters, fencing, public ways and any other significant feature and (ii) a floor plan for each unit in the dwelling, whether or not it is the subject of the application.
- (c) Eligibility. In order for a nonconforming dwelling unit to be validated by administrative action of the Zoning Administrator as authorized herein, the Zoning Administrator must find, based on competent evidence, supported by public records, that:
- (1) The nonconforming dwelling units were either in existence April 1, 1995, or the structure in which they are located was originally designed to accommodate more than the number of such units presently in use.
- (2) The applicant neither constructed nor established the non-conforming dwelling units.

- (3) The nonconforming dwelling units comply with or can be made to comply with current standards of the National Fire Protection Association Life Safety Code (§16-1) and the National Fire Protection Association 1: Fire Prevention Code (§10-16), as amended.
 - (4) Each of the nonconforming dwelling units complies with provisions of the City's Housing Code or can be made to conform with, as amended, including, but not limited to, the requirements of §6-110, Minimum Standards for Space and Occupancy and §6-111, Minimum Plumbing Standards, and §6-112 Minimum Ventilation Standards.
 - (5) The structure containing the nonconforming dwelling units is located in the R-3, R-4, R-5, R-6 or R-7 Zones; or the B-1, B-1(b), B-2, B-2(b) or B-3 Zones.
 - (6) In the absence of legally competent evidence, supported by records, (such as, but not limited to, Assessor's records, purchase and sale agreements, affidavits, deeds, mortgages, as well as reliable secondary sources, such as the Portland Directory), that the conditions of subsections c(1), c(2), c(3), c(4), or c(5) can be met, the Zoning Administrator may not approve the application, but shall advise the applicant that the matter may be appealed to the Board of Appeals.
- (d) Notice to Abutters. Upon receipt of a completed application, the Zoning Administrator will provide both the owners of abutting properties as well as the owners of property situated within 300 feet of the structure of the essential information contained in the application, along with a notice that they may object to the Zoning Administrator's acting on the application and require the applicant to appeal to the Board of Appeals. The notice shall be in conspicuous type and advise the abutters and owners of property within 300 feet that any objection must be submitted in writing to the Zoning Administrator within ten (10) days of the date of the notice sent to them.

The failure of any property owner to receive the notice described above shall not invalidate any action by the Zoning

Administrator. The Zoning Administrator shall promptly notify the applicant of receipt of the objection, that the Zoning Administrator is without authority to proceed and advise the applicant that, within 30 days from receipt of the letter, an application may be filed to have the matter reviewed by the Board of Appeals as a conditional use.

(e) Approval of Application.

(1) The Zoning Administrator may approve the application, provided: (i) the evidence presented satisfies all of the requirements of this section; (ii) the Office of Inspection Services and Fire Prevention Bureau have certified that the nonconforming units conform with or can be made to conform with the applicable codes; and (iii) no abutter nor person entitled to notice has requested that the application be referred to the Board of Appeals, instead of the Zoning Administrator.

(2) Upon approval of the application and receipt of an additional fee in the amount of \$75.00 for each nonconforming dwelling unit which has been recognized as a lawful, nonconforming use, the Zoning Administrator will issue a certificate of occupancy.

(f) Disapproval of Application. In the event the application is not approved by the Zoning Administrator or in the event of a timely objection filed by a person qualified herein to file such an objection, the applicant, within (30) days from the decision of the Zoning Administrator or objection, may appeal the matter to the Board of Appeals as a conditional use.

(g) Action by Board of Appeals. The Board of Appeals shall treat applications filed under this section as an application for a conditional use (§14-474) applying the standards applicable to conditional uses as well as the requirements of this section.

(h) Dimensional and Parking Requirements. In making decisions under this section neither the Zoning Administrator nor the Board of Appeals shall apply the dimensional or parking requirements which would otherwise apply in the zones where the nonconforming dwelling units are situated.

(i) Exclusions.

- (1) The provisions of this section shall not apply to rooming units (§14-47), but shall apply to efficiency apartments (§6-110(b)).
- (2) The Board of Appeals is without jurisdiction to grant any relief (including, but not limited to, variances) which would recognize the particular dwelling units which are the subject of this section as legal, nonconforming uses, except in strict compliance with each requirement of this section.

(j) Prior Judicial and Administrative Action. Decisions of any court or administrative body, including but not limited to, the Zoning Administrator, the Planning Board or the Board of Appeals made prior to the effective date of this section and which addressed the number of nonconforming dwelling units in a particular structure, will not bar relief under this section.

(Ord. No. 153-03/04, 02/23/04)

*Editor's note--Section 4 of Ord. No. 354-85, adopted Jan. 7, 1985, repealed the pre-2004 version of § 14-391, relative to the Board of Appeals permitting temporary nonconforming uses, which derived from Code 1968, § 602.17.K.

Sec. 14-392. Reserved.
Sec. 14-393. Reserved.
Sec. 14-394. Reserved.
Sec. 14-395. Reserved.
Sec. 14-396. Reserved.
Sec. 14-397. Reserved.
Sec. 14-398. Reserved.
Sec. 14-399. Reserved.
Sec. 14-400. Reserved.

DIVISION 24. USE REGULATIONS AND EXCEPTIONS

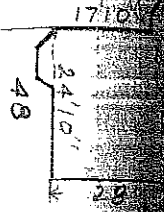
Sec. 14-401. Generally.

22

93
 11017 x 9.17 x 12 = 1116
 11017 x 2.1 x 23 = 544
 11017 x 4.1 x 31 = 1107
 2154
 2154 x 31 = 66814

ASHMONT ST

LINDS



Block 1234
 Use of Bldg. *Dwellings*
 Tenants and Rooms. *1-10 B.R.s*
 Rentals *Quarter*
 Age *50 YEARS*
 Condition of Repair *Fair*

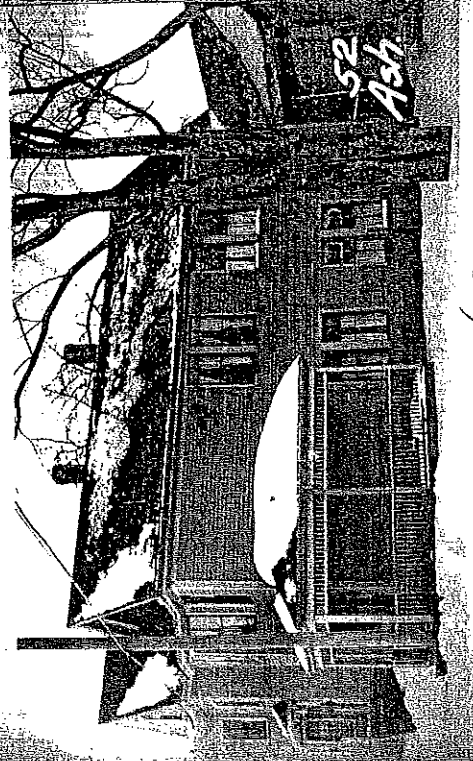
- | | | |
|---|--|--|
| Class
<input checked="" type="checkbox"/> Bungalow
<input checked="" type="checkbox"/> Single House
<input type="checkbox"/> Two family
<input type="checkbox"/> Three family
<input type="checkbox"/> Apartment
<input type="checkbox"/> Store Building
<input type="checkbox"/> Office
<input type="checkbox"/> Factory
<input type="checkbox"/> Stables
<input type="checkbox"/> Garage, private
<input type="checkbox"/> Garage, public
<input type="checkbox"/> Theatre
<input type="checkbox"/> Club House
<input type="checkbox"/> Cottage
Foundation
<input checked="" type="checkbox"/> Brick
<input type="checkbox"/> Stone
<input type="checkbox"/> Concrete
<input type="checkbox"/> Pile
Basement
<input type="checkbox"/> Full
<input checked="" type="checkbox"/> Cement Floor
<input checked="" type="checkbox"/> Waterproof
Construction
<input type="checkbox"/> Frame
<input type="checkbox"/> Brick
<input type="checkbox"/> Tile
<input type="checkbox"/> Blocks
<input type="checkbox"/> Stucco
<input type="checkbox"/> Re-Concrete
<input type="checkbox"/> Mill
<input type="checkbox"/> Steel Frame | Exterior
<input checked="" type="checkbox"/> Clapboards
<input type="checkbox"/> Siding
<input type="checkbox"/> Shingles
<input type="checkbox"/> Stucco
<input type="checkbox"/> Paper
<input type="checkbox"/> Tapestry Brick
<input type="checkbox"/> Com. Brick
<input type="checkbox"/> Galv. Iron
<input type="checkbox"/> Stone
<input type="checkbox"/> Terra Cotta
<input type="checkbox"/> Concrete
Heating
<input type="checkbox"/> Stove
<input type="checkbox"/> Furnace
<input checked="" type="checkbox"/> Hot Water
<input checked="" type="checkbox"/> Steam
<input type="checkbox"/> Light
<input type="checkbox"/> Oil
<input type="checkbox"/> Gas
<input checked="" type="checkbox"/> Electric | Plumbing
<input type="checkbox"/> Common
<input checked="" type="checkbox"/> Individual
<input type="checkbox"/> Open
<input type="checkbox"/> Set tubs
<input type="checkbox"/> Finish
<input type="checkbox"/> Plain
<input type="checkbox"/> Hardwood
<input type="checkbox"/> Halls
<input type="checkbox"/> Wood
<input type="checkbox"/> Terrazzo
<input type="checkbox"/> Marble
<input type="checkbox"/> Roof - Roofing
<input type="checkbox"/> Shingle
<input type="checkbox"/> Slate
<input type="checkbox"/> Gravel
<input type="checkbox"/> Prepared
<input type="checkbox"/> Asbestos
<input type="checkbox"/> Flat
<input type="checkbox"/> Hip
<input type="checkbox"/> Gable
<input type="checkbox"/> Dormers
<input type="checkbox"/> Windows
<input type="checkbox"/> Plain Glass
<input type="checkbox"/> Wire Glass
<input type="checkbox"/> Shutters
<input type="checkbox"/> Miscellaneous
<input type="checkbox"/> Elevator
<input type="checkbox"/> Sprinkler
<input type="checkbox"/> Fire Escape
<input type="checkbox"/> Refrigerator
<input type="checkbox"/> Vacuum Cleaner
<input type="checkbox"/> Safes and Vaults
<input type="checkbox"/> Telephone Equip. |
|---|--|--|

Ground Area *791*
 Cubic Feet *23148*
 Utility Dep. *40*
 Dep. *40*
 Per cent. *2392*
 Sound Value, \$ *2392*

Land *3000* Corner Interior Alley
 Front Depth = ft.

COMPUTATION

Area	Multiplier	Coefficient
3000	123	3690
Year	Unit	Land Value
19	40	3690



125-11-9

Surveyed by *J. H. F. Jones*
 JUN 24 1924
 (Remarks on other Side)