

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Elizabeth Bordowitz, Chair
Nan Sawyer
Julie Brady
Joe Lewis
Catherine Decker

April 22, 2002

Lynn Straton
9 Arlington Place
Portland, Maine 04101

RE: 9 Arlington Plane
CBL: 125-N-015
ZONE: R-3

Dear Ms. Stanton

As you know, at its April 4, 2002 meeting, **the Board of Appeals voted 4-0 to grant** your Interpretational Appeal.

Enclosed you will find a copy of the Boards decision.

Should you have any questions please do not hesitate to contact me at 207-874-8701.

Sincerely,

Jodine Adams
Office Manager

PRACTICAL DIFFICULTY VARIANCE

DECISION

Name and address of applicant: Craig Rasmussen

171 Brown St # 2 Westbrook, Me 04092

Location of property under appeal: _____

Appearances.

Names and addresses of witnesses (proponents, opponents and others):

Paul Robinson → Q re: sewer

659 Warren Av.

Craig Rasmussen → Applicant
(address above)

Fred Witt → owner of 519 Warren Av.

Exhibits.

CERTIFICATION BY ZONING ADMINISTRATOR

The Zoning Administrator hereby certifies that:

- a. The Practical Difficulty variance applied for is permitted under §14-473(c)(3)(b)(1) (dimensional standards); and is not barred by the exceptions set forth in sections 14-473(c)(3)(a)(6) (shoreland and flood hazard areas); nor §14-473(c)(4) (relief limited to minimum variance required); nor §14-473(c)(3)(c) (specific variances prohibited); nor §14-473(c)(3)(d) (no relief for volume, floor area, nor setting of single-component manufactured homes).
- b. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. §435, nor within a shoreland zone or flood hazard zone as defined in this article.

Paul Robinson Q - re: sewer 1
659 Warren Av property owner

The Zoning Administrator has certified/has not certified that the application comports with each of the above requirements.

Cathy G. De
Secretary

ORDINANCE CRITERIA

Findings of Fact.

Notwithstanding the provisions of §14-473(c)(1) and (2) of this section, the Board of Appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood:

IT IS 4 IT IS NOT 0 (deny application)

Comment: _____

2. The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties:

IT WILL NOT 4 IT WILL 0 (deny application)

Comment: _____

3. The Practical Difficulty is not the result of action taken by the applicant:

IT IS NOT 4 IT IS 0 (deny application)

Comment: _____

4. No other feasible alternative is available to the applicant, except a variance:
IT IS NOT 4 IT IS 0 (deny application)

Comment: _____

5. The granting of a variance will not have an unreasonably adverse effect on the natural environment:
IT WILL NOT 4 IT WILL 0 (deny application)

Comment: _____

6. Strict application of the dimensional standards of the ordinance to the subject property will preclude a use which is permitted in the zone in which the property is located.
IT WILL 4 IT WILL NOT 0 (deny application)

Comment: _____

7. Strict application of the dimensional standards of the ordinance to the subject property will result in economic injury to the applicant.
IT WILL 4 IT WILL NOT 0 (deny application)

Comment: _____

If the appeal is granted, does the Board wish to impose conditions which will further the intent and purpose of this Ordinance?

YES _____
NO x

Specific Conditions: _____

Reasons: _____

Date of Public Hearing: 4/4/02

Motion: Motion to grant the application of Craig Kasmusson to obtain
a practical difficulty variance from Section 17-229.13
(including conditions and findings of fact) _____

Votes in favor 7

Votes Opposed 0

Catherine E. Duke
[Signature]
Elizabeth J. Brady
[Signature]



CITY OF PORTLAND

INTERPRETATION APPEAL

DECISION

Applicant's name and address: Lynn Stanton

7 Arlington Place, Portland Me 04101

Applicant's interest in property (e.g. owner, purchaser, etc.):

owner

Owner's name and address if different same

Address of property: 7 Arlington place Portland, Me 04101

For the Record

Names of witnesses (proponents, opponents and others):

pro Hal Lyde → 7 Arlington Place Portland

pro Bill Linnell → 1905 Congress St. Portland

pro Lynn Stanton owner addic. time

Exhibits admitted (e.g., renderings, reports, etc.):

Findings of Fact

1. The Board finds as fact that: _____

2. The finding(s) of fact above-stated is(are) based on the following reasons:

Motion: to ~~grant~~ ^{find} ~~accept~~ amended plan of shed with building dimensions of 13'6" h x 9'6" w in compliance with building permit number 02-0173

Determinations

The Board determines that: the shed that was torn down may be replaced by a structure that is 13'6" h x 9'6" w in conformance with the building permit.

Dated: April 4, 2002

Cathy E. Duch
Secretary of the Board

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

To: City Clerk
From: Marge Schmuckal, Zoning Administrator
Date: April 22, 2002
RE: Action taken by the Zoning Board of Appeals on April 4, 2002.

Members Present: Elizabeth Bordowitz, Julie Brady, Nan Sawyer and Catherine Decker
Members Absent: Joseph Lewis

APPEAL AGENDA

The Board of Appeals held a public hearing on Thursday, April 4, 2002 at 7:00 p.m. on the second floor in Room 209 at the Portland City Hall 389 Congress Street, Portland, Maine to hear the following appeals:

The meeting was called to order at 7:07 p.m.

1. **Unfinished Business:** There was no unfinished business
2. **Other Business:** Election of Secretary, Catherine Decker acted as Secretary for this meeting
3. **New Business:**

A. Variance Appeal

Craig Rasmusson, purchaser of 519 Warren Avenue, Tax Map #314, Block #B Lot #047, 048 & 55 in the B-4 Zone is requesting a Practical Difficulty Variance Appeal from section 14-229.13 (1) (dimensional requirements) of the Portland Zoning Ordinance. This would be for the purpose of building a 448 s.f. Drive-thru coffee shop. Mr. Craig Rasmusson is the applicant. The Board granted the Practically Difficulty Appeal 4-0 relaxing the required 10,000 s.f. Lot size dimension to approximately 7,900 s.f.

B. Interpretation Appeal

Lynn Stanton of 7 Arlington Place, Tax Map #125, Block N, Lot #015 in the R-3 Zone is requesting a Interpretation Appeal from section 14-385 (restoration or reconstruction within an existing footprint of damages nonconforming building premises) of the Portland Zoning Ordinance. This would for the purpose of re-building a shed with dispute of original height. The Board granted the Interpretational Appeal 4-0 to allow the shed design as submitted to the Board.

4. **Adjournment:** The meeting adjourned at 8:45 p.m.

Enclosure: Agenda of April 4, 2001
Copy of Board's Decisions
1 standard size tapes

CC: Joseph Gray, City Manager
Mark Adelson, Housing & Community Services
Alex Jaegerman, Planning Department
Lee Urban, Planning & Development Director

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

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2. Other Business: Election of Secretary

3. New Business:

- A. Variance Appeal

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- B. Interpretation Appeal

Lynn Stanton of 7 Arlington Place, Tax Map #125, Block N, Lot #015 in the R-3 Zone is requesting a Interpretation Appeal from section 14-385 (restoration or reconstruction within an existing footprint of damages nonconforming building premises) of the Portland Zoning Ordinance. This would for the purpose of re-building a shed with dispute of original height.

4. Adjournment:



CITY OF PORTLAND

TO: ZONING BOARD OF APPEALS
FROM: MARGE SCHMUCKAL, ZONING ADMINISTRATOR
DATE: APRIL 4, 2002
RE: 7 ARLINGTON PLACE – R-5 ZONE – 125-N-015

This interpretation appeal revolves around the height of the replacement structure. This shed structure was an existing nonconforming structure as to the side and rear setbacks. The Zoning Ordinance allows nonconforming structures to be rebuilt within one year on the same footprint, with the same setbacks, with the same dimensions (including height), and the same use. This was explained in depth, several times to the applicant and her builder.

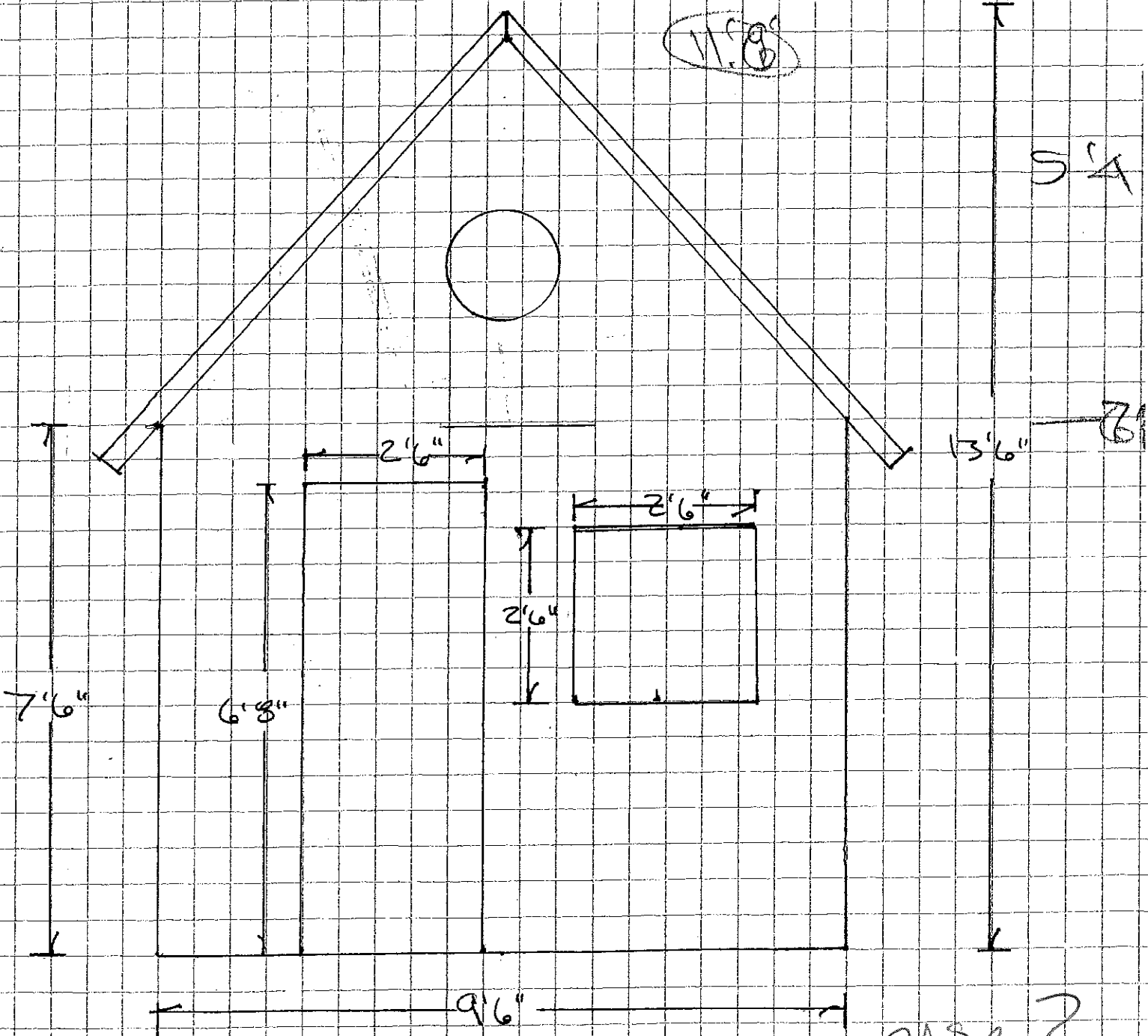
We are basing our interpretation of the height of the original building by the photos that were submitted to this office, prior to the demolition of the shed. The photo (page 1) shows a normal door which we assume to be 6' 8" leaning up against the old shed. This door is not exactly at full height because of its leaning, but it is close to full height. The picture clearly shows the edge of the door to be hitting a foot or so above the edge of the lower roof line. The existing structure is not twice the size of this door or 13' 4". The applicant is proposing a new shed height to the ridge of 13' 6" (page 2). We believe that height is significantly higher than the original height.

Therefore, our office does not believe that the applicant's proposal is meeting the intent of the "rebuild" ordinance on either of the changes.

Cc: Lynn Stanton, owner
Charlie Lane, Corporation Counsel



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PAGE 2

REAL ESTATE ASSESSMENT RECORD - CITY OF PORTLAND, MAINE

LAND NOS.	STREET	BLDG. NO.	CARD NO.	DEVELOPMENT NO.	AREA	DIST.	ZONE	CHART	BLOCK	LOT
7	Arlington Place					8		125	N	15

TAXPAYER ADDRESS AND DESCRIPTION BRESCOTT EDNA L. 7 ARLINGTON PLACE CITY AND & BLDGS. ARLINGTON PLACE #7 ASSESSORS PLAN 125-N-15 AREA 2730 SQ. FT.	RECORD OF TAXPAYER TOPOGRAPHY LEVEL HIGH LOW ROLLING SWAMPY PAVED SEMI-IMPROVED DIRT SIDEWALK TILLABLE PASTURE WOODED WASTE
--	---

LAND VALUE COMPUTATIONS AND SUMMARY										ASSESSMENT RECORD																
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR	1951	19	FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR	1951	19	LAND	BLDGS.	TOTAL	LAND	BLDGS.	TOTAL					
42	100	830	350	350												175	1400	1575								
TOTAL VALUE LAND						420		TOTAL VALUE BUILDINGS						2950												
TOTAL VALUE LAND AND BUILDINGS						3300		TOTAL VALUE LAND AND BUILDINGS						3370												
SQ. FT. TO-FROM CH.								SQ. FT. TO-FROM CH.																		
LAND VALUE COMPUTATIONS AND SUMMARY										LAND VALUE COMPUTATIONS AND SUMMARY																
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR	19	19	FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR	19	19	LAND	BLDGS.	TOTAL	LAND	BLDGS.	TOTAL					
TOTAL VALUE LAND								TOTAL VALUE BUILDINGS																		
TOTAL VALUE LAND AND BUILDINGS								TOTAL VALUE LAND AND BUILDINGS																		
SQ. FT. TO-FROM CH.								SQ. FT. TO-FROM CH.																		
LAND VALUE COMPUTATIONS AND SUMMARY										LAND VALUE COMPUTATIONS AND SUMMARY																
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR	19	19	FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR	19	19	LAND	BLDGS.	TOTAL	LAND	BLDGS.	TOTAL					
TOTAL VALUE LAND								TOTAL VALUE BUILDINGS																		
TOTAL VALUE LAND AND BUILDINGS								TOTAL VALUE LAND AND BUILDINGS																		
SQ. FT. TO-FROM CH.								SQ. FT. TO-FROM CH.																		
LAND VALUE COMPUTATIONS AND SUMMARY										LAND VALUE COMPUTATIONS AND SUMMARY																
YEAR	ORIG. COST	RENTAL	YEAR	SALE PRICE	EXPENSE	YEAR	U. S. R. S.	NET	YEAR	ORIG. COST	RENTAL	YEAR	SALE PRICE	EXPENSE	YEAR	U. S. R. S.	NET									



CITY OF PORTLAND, MAINE

Department of Building Inspections

3/18

20 02

Received from

Hynn Stanton

Location of Work

7 Arlington Place

Cost of Construction

\$ /

Permit Fee

\$ /

Building (IL) Plumbing (IS) Electrical (I2) Site Plan (U2)

Other

2 BA masonry

CBL:

125 N-015

Check #:

22286

Total Collected \$

100-

THIS IS NOT A PERMIT

No work is to be started until PERMIT CARD is actually posted upon the premises. Acceptance of fee is no guarantee that permit will be granted. PRESERVE THIS RECEIPT. In case permit cannot be granted the amount of the fee will be refunded upon return of the receipt less \$10.00 or 10% whichever is greater.

WHITE - Applicant's Copy

YELLOW - Office Copy

PINK - Permit Copy