

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Peter Coyne
Philip Saucier-chair
Sara Moppin
Jill E. Hunter
Gordan Smith-secretary
William Getz

September 22, 2009

Michael & Marleen Denney
8 Arlington Street
Portland, ME 04101

RE: 8 Arlington Street
CBL: 126 F008
ZONE: R-3

Dear Mr. & Ms. Denney:

As you know, at the September 17, 2009 meeting, the Board voted 5-1 to grant your Interpretation Appeal to allow you to expand your laundry room and add a rear deck. They also voted 6-0 to accept the withdrawal of the Practical Difficulty Appeal.

Enclosed please find a copy of the board's decision. Your permit application (#09-0817) has been approved by zoning and is moving forward in the review process.

Appeals from decisions of the Board may be filed in Superior Court, pursuant to 30-A M.R.S.A. section 2691 (2) (G).

Should you have any questions please feel free to contact me at 207-874-8709.

Yours truly,



Ann B. Machado
Zoning Specialist

Cc. file

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk

From: Marge Schmuckal, Zoning Administrator

Date: September 21, 2009

RE: Action taken by the Zoning Board of Appeals on September 17, 2009.

Members Present: Phil Saucier (chair), Gordon Smith (secretary), Jill Hunter, Sara Moppin, Peter Coyne and William Getz.

1. New Business:

A. Interpretation Appeal:

8 Arlington Street, Michael & Marleen Denney, owners, Tax Map 126, Block F, Lot 008, R-3

Residential Zone: The appellants are seeking an interpretation of sections 14-90(b) and 14-388 of the land use ordinance as they relate to their permit application to expand their laundry room and add a rear deck. Representing the appeal are the owners. **The Board voted 5-1 to grant the interpretation appeal.**

B. Practical Difficulty Variance Appeal:

8 Arlington Street, Michael & Marleen Denney, owners, Tax Map 126, Block F, Lot 008, R-3

Residential Zone: The appellants are seeking a variance from section 14-388 which states that "a building nonconforming as to the regulations governing area per dwelling unit shall not be enlarged unless such building, including such addition or enlargement, is made to conform to all the area per dwelling regulations of the zone in which it is located." Section 14-90(a) requires a minimum lot area per dwelling unit of 6,500 square feet. The lot is 5665 square feet. Representing the appeal are the owners. **The Board voted 6-0 to accept the withdrawal of the appeal.**

Enclosure:

Agenda of September 17, 2009

Original Zoning Board Decision

One dvd

CC: Joseph Gray, City Manager

Penny St. Louis Littell, Director, Planning & Urban Development

Alex Jaegerman, Planning Division

T.J. Martzial, Housing & Neighborhood Services Division

Members Present: Philip Saucer, Jill Hunter, SARA Mappin
Peter Coyne, Bill Getz, Gordon Shipley

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Members Absent: None

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, September 17, 2009 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

Called to Order: 6:35 pm -

1. New Business:

5-1
Granted

A. Interpretation Appeal:

8 Arlington Street, Michael & Marleen Denney, owners, Tax Map 126, Block F, Lot 008, R-3 Residential Zone: The appellants are seeking an interpretation of sections 14-90(b) and 14-388 of the land use ordinance as they relate to their permit application to expand their laundry room and add a rear deck. Representing the appeal are the owners.

6-0
withdrew
accepted

B. Practical Difficulty Variance Appeal:

8 Arlington Street, Michael & Marleen Denney, owners, Tax Map 126, Block F, Lot 008, R-3 Residential Zone: The appellants are seeking a variance from section 14-388 which states that "a building nonconforming as to the regulations governing area per dwelling unit shall not be enlarged unless such building, including such addition or enlargement, is made to conform to all the area per dwelling regulations of the zone in which it is located." Section 14-90(a) requires a minimum lot area per dwelling unit of 6,500 square feet. The lot is 5665 square feet. Representing the appeal are the owners.

2. Adjournment: 8:45

We need to define "lot of record"

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

“Practical Difficulty” Variance Appeal

DECISION

Date of public hearing: September 17, 2009

Name and address of applicant: Michael & Marleen Denney
8 Arlington Street
Portland, ME 04101

Location of property under appeal: 8 Arlington St.

For the Record:

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

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

Findings of Fact and Conclusions of Law:

The applicant is seeking a variance from section 14-388 of the City Code, which states that a building nonconforming as to the regulations governing area per dwelling unit shall not be enlarged unless such building, including such addition or enlargement, is made to conform to all the area per dwelling regulations of the zone in which it is located. The applicants proposed to enlarge their home by putting an addition on the rear and building a deck.

The applicants' single family home in the R-3 zone is required to have a minimum lot area per dwelling unit of 6,500 feet pursuant to section 14-90(b) of the Code. The applicants' lot area is 5,665 square feet.

“Practical Difficulty” Variance standard pursuant to Portland City Code §14-473(c)(3):

1. The application is for a variance from dimensional standards of the zoning ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

2. Strict application of the provisions of the ordinance would create a practical difficulty, meaning it would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant. “Significant economic injury” means the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

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

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

6. No other feasible alternative is available to the applicant, except a variance.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

8. 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.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

Conclusion: (check one)

___ Option 1: The Board finds that the standards described above (1 through 8) have been satisfied and therefore GRANTS the application.

___ Option 2: The Board finds that while the standards described above (1 through 8) have been satisfied, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

___ Option 3: The Board finds that the standards described above (1 through 8) have NOT all been satisfied and therefore DENIES the application.

Dated:

Board Chair



City of Portland Zoning Board of Appeals

September 9, 2009

Michael & Marleen Denney
8 Arlington Street
Portland, ME 04101

Dear Appellant,

Your Interpretation Appeal and Practical Difficulty Variance Appeal have been scheduled to be heard before the Zoning Board of Appeals on **Thursday, September 17, 2009 at 6:30 p.m.** in Room 209, located on the second floor of City Hall.

Please remember to bring a copy of the packets with you to the meeting to answer any questions the Board may have.

I have included an agenda with your appeals highlighted, as well as a handout outlining the meeting process for the Zoning Board of Appeals.

I have also included the bills for the Legal Ad, Processing Fee and the Notices. The check should be written as follows:

MAKE CHECK OUT TO: City of Portland
MAILING ADDRESS: Room 315
389 Congress Street
Portland, ME 04101

Please feel free to contact me at 207-874-8709 if you have any questions.

Sincerely,

Ann B. Machado
Zoning Specialist

Cc: File

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, September 17, 2009 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

1. New Business:

A. ~~Interpretation Appeal:~~

8 Arlington Street, Michael & Marleen Denney, owners, Tax Map 126, Block F, Lot 008, R-3 Residential Zone: The appellants are seeking an interpretation of sections 14-90(b) and 14-388 of the land use ordinance as they relate to their permit application to expand their laundry room and add a rear deck. Representing the appeal are the owners.

B. ~~Practical Difficulty Variance Appeal:~~

8 Arlington Street, Michael & Marleen Denney, owners, Tax Map 126, Block F, Lot 008, R-3 Residential Zone: The appellants are seeking a variance from section 14-388 which states that "a building nonconforming as to the regulations governing area per dwelling unit shall not be enlarged unless such building, including such addition or enlargement, is made to conform to all the area per dwelling regulations of the zone in which it is located." Section 14-90(a) requires a minimum lot area per dwelling unit of 6,500 square feet. The lot is 5665 square feet. Representing the appeal are the owners.

2. Adjournment:

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1549	Applicant: Michael Denney
Project Name: 8 Arlington St	Location: 8 ARLINGTON ST
CBL: 126 F008001	Application Type: Interpretation Appeal
Invoice Date: 09/09/2009	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$275.72		\$100.00		\$175.72	On Receipt

First Billing

Previous Balance **\$0.00**

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements	1	\$79.22
Notices	62	\$46.50
Legal Ad Processing Fee	1	\$50.00
Appeal Fee	1	\$100.00
		<u>\$275.72</u>
Total Current Fees:	+	\$275.72
Total Current Payments:	-	\$100.00
Amount Due Now:		\$175.72

\$275.72

 Detach and remit with payment

Bill to: Michael Denney
 8 Arlington St
 Portland, ME 04101

CBL 126 F008001
Application No: 0000-1549
Invoice Date: 09/09/2009
Invoice No: 35475
Total Amt Due: \$175.72
Payment Amount:

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1550	Applicant: Michael Denney
Project Name: 8 Arlington St	Location: 8 ARLINGTON ST
CBL: 126 F008001	Application Type: Practical Difficulty Variance Appeal
Invoice Date: 09/09/2009	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due		Payment Due Date
\$0.00		\$0.00		\$224.97		\$100.00		\$124.97		On Receipt

First Billing

Previous Balance **\$0.00**

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements	1	\$79.22
Notices	61	\$45.75
Appeal Fee	1	\$100.00
		\$224.97
Total Current Fees:	+	\$224.97
Total Current Payments:	-	\$100.00
Amount Due Now:		\$124.97

Detach and remit with payment

Bill to: Michael Denney
 8 Arlington St
 Portland, ME 04101

CBL 126 F008001
Application No: 0000-1550
Invoice Date: 09/09/2009
Invoice No: 35476
Total Amt Due: \$124.97
Payment Amount:

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1550	Applicant: Michael Denney
Project Name: 8 Arlington St	Location: 8 ARLINGTON ST
CBL: 126 F008001	Application Type: Practical Difficulty Variance Appeal
Invoice Date: 09/09/2009	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$224.97		\$224.97		\$0.00	On Receipt

Previous Balance **\$0.00**

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements	1	\$79.22
Notices	61	\$45.75
Appeal Fee	1	\$100.00
		<hr/> \$224.97
		Total Current Fees: + \$224.97
		Total Current Payments: - \$224.97
		<hr/> Amount Due Now: \$0.00

Bill to: Michael Denney
 8 Arlington St
 Portland, ME 04101

CBL 126 F008001
Application No: 0000-1550
Invoice Date: 09/09/2009
Invoice No: 35476
Total Amt Due: \$0.00
Payment Amount: \$224.97

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1550	Applicant: Michael Denney
Project Name: 8 Arlington St	Location: 8 ARLINGTON ST
CBL: 126 F008001	Application Type: Practical Difficulty Variance Appeal
Invoice Date: 09/09/2009	

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\$0.00		\$0.00		\$224.97		\$100.00		\$124.97	On Receipt

First Billing

Previous Balance **\$0.00**

Fee Description	Qty	Fee/Deposit Charge		
Legal Advertisements	1	\$79.22		
Notices	61	\$45.75		
Appeal Fee	1	\$100.00		
		<u>\$224.97</u>		
		Total Current Fees:	+	\$224.97
		Total Current Payments:	-	\$100.00
		Amount Due Now:		\$124.97

 Detach and remit with payment

Bill to: Michael Denney
 8 Arlington St
 Portland, ME 04101

CBL 126 F008001
Application No: 0000-1550
Invoice Date: 09/09/2009
Invoice No: 35476
Total Amt Due: \$124.97
Payment Amount:

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.

Ann Machado - FW: Zoning Board of Appeals Legal Ad

From: Joan Jensen <jjensen@pressherald.com>
To: <AMACHADO@portlandmaine.gov>
Date: 9/9/2009 2:07 PM
Subject: FW: Zoning Board of Appeals Legal Ad
CC: Gayle Guertin <GG@portlandmaine.gov>

Hi Ann,

All set to run your ad on Friday, September 11.
The cost is \$158.44.

If you have any questions, please call or email me.

Thank you,
Joan

Joan Jensen
Legal Advertising
Portland Press Herald/Maine Sunday Telegram
P.O. Box 1460
Portland, ME 04104
Tel. (207) 791-6157
Fax (207) 791-6910
Email jjensen@pressherald.com

Joan -

Attached is the Zoning Board of Appeals legal ad for Friday, September 11, 2009.

Could you also copy Gayle Guertin on the cost of the ad?

Thank you.
Ann Machado @874-8709



CITY OF PORTLAND, MAINE
Department of Building Inspections

Original Receipt

Received from Caric 21 2009

Location of Work 7 Lehigh Street

Cost of Construction \$ _____ Building Fee: _____
 Permit Fee \$ _____ Site Fee: _____
 Certificate of Occupancy Fee: _____
 Total: _____

Building (IL) _____ Plumbing (IS) _____ Electrical (I2) _____ Site Plan (U2) _____
 Other 126 F 008
 CBL: 126 F 008
 Check #: 11200 Total Collected \$ 11200

**No work is to be started until permit issued.
Please keep original receipt for your records.**

Taken by: [Signature]
 WHITE - Applicant's Copy
 YELLOW - Office Copy
 PINK - Permit Copy



CITY OF PORTLAND, MAINE
Department of Building Inspections

Original Receipt

Received from 126 F 008 2009

Location of Work Lehigh Street

Cost of Construction \$ _____ Building Fee: _____
 Permit Fee \$ _____ Site Fee: _____
 Certificate of Occupancy Fee: _____
 Total: _____

Building (IL) _____ Plumbing (IS) _____ Electrical (I2) _____ Site Plan (U2) _____
 Other 126 F 008
 CBL: 126 F 008
 Check #: 1218 Total Collected \$ 1218

**No work is to be started until permit issued.
Please keep original receipt for your records.**

Taken by: [Signature]
 WHITE - Applicant's Copy
 YELLOW - Office Copy
 PINK - Permit Copy