

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Philip Saucier
Sara Moppin-secretary
Matthew Morgan
Gordon Smith-chair
Mark Bower
William Getz
Elyse Segovias

March 19, 2012

Jeffrey Borland
36 Runnells Street
Portland, ME 04103

RE: 249 Concord Street, W
CBL: 133 G006
ZONE: R-5

Dear Mr. Borland,

At the March 15, 2012 meeting, the Zoning Board of Appeals voted 6-0 to deny your practical difficulty appeal to reduce the minimum lot size required for a daycare. I am enclosing a copy of the Board's decision. As a result of this decision, the Conditional Use Appeal was withdrawn.

I have also enclosed a receipt for the final payment. Your account is now paid in full.

You have the right to ask the Board to reconsider their decision within ten days of the date that it was rendered under statute 30-A MRSA 2691(3)(F).

Appeals from decisions of the Board may be filed in Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

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: March 19, 2012

RE: Action taken by the Zoning Board of Appeals on March 15, 2012.

Members Present: William Getz, Gordon Smith (chair), Mark Bower, Sara Moppin (secretary), Elyse Segovias and Phil Saucier

Members Absent: Matthew Morgan

1. New Business

A. Practical Difficulty Variance Appeal:

249 Concord Street W, Jeffrey Borland, owner, Tax Map 133, Block G, Lot 006, R-5

Residential Zone: The applicant is proposing to change the use of the property from two dwelling units to one dwelling unit and a day care/nursery school for up to twelve children. Section 14-120(1)(a)(11) gives the minimum required lot size for a daycare as 6,000 square feet. The lot is 3,558 square feet. The appellant is requesting a variance for the minimum lot size for a daycare to be reduced from 6,000 square feet to 3,558 square feet. Representing the appeal is the owner. **The Zoning Board of Appeals voted 6-0 to deny the appeal to reduce the minimum lot size required for a daycare.**

B. Conditional Use Appeal:

249 Concord Street W, Jeffrey Borland, owner, Tax Map 133, Block G, Lot 006, R-5

Residential Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a daycare for up to twelve children. Representing the appeal is the owner. **The applicant withdrew the request for the Conditional Use Appeal for a daycare.**

Enclosure:

Decisions for Agenda from March 15, 2012

One DVD

CC: Mark Rees, City Manager

Greg Mitchell, Acting Director, Planning & Urban Development

Alex Jaegerman, Planning Division

Mary Davis, Housing and Neighborhood Services Division

Members present - Gordon Smith - Sara Mappin - Elyse Segovias
William Getz - Phil Szwarc - Mark Bower

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Members Absent - Matthew

APPEAL AGENDA

Meeting called to order 6:30 pm

The Board of Appeals will hold a public hearing on Thursday, March 15, 2012 at 6:30 p.m. on the second floor in room 209 at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

1. New Business

A. Practical Difficulty Variance Appeal:

249 Concord Street W, Jeffrey Borland, owner, Tax Map 133, Block G, Lot 006, R-5 Residential Zone: The applicant is proposing to change the use of the property from two dwelling units to one dwelling unit and a day care/nursery school for up to twelve children. Section 14-120(1)(a)(11) gives the minimum required lot size for a daycare as 6,000 square feet. The lot is 3,558 square feet. The appellant is requesting a variance for the minimum lot size for a daycare to be reduced from 6,000 square feet to 3,558 square feet. Representing the appeal is the owner.

Demuel
6-Q

B. Conditional Use Appeal:

249 Concord Street W, Jeffrey Borland, owner, Tax Map 133, Block G, Lot 006, R-5 Residential Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a daycare for up to twelve children. Representing the appeal is the owner.

withheld

2. Adjournment:

8:00 pm



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

Applicant Information:

Jeffrey Borland
 Name

Business Name

36 Runnells Street
 Address

Portland, ME 04103

766-7767

Telephone Fax

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

owner
 (e.g. owner, purchaser, etc.):

Current Zoning Designation: R5

Existing Use of Property:

two family

Subject Property Information:

249 Concord Street West
 Property Address

133-G-6
 Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

Name

Address

Telephone Fax

Conditional Use Authorized by Section 14 - 118(c)(3)

Type of Conditional Use Proposed:

day care for 12 children

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.

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

[Signature]
 Signature of Applicant

RECEIVED

FEB 27 2012

2/26/12
 Date

February 27, 2012

Dear Zoning Board of Appeals:

I am writing to you with the hope of opening a small child care/nursery school on the first and second floors of my two-unit property at 249 Concord Street West. The third floor will remain a residential unit. The proposed program would serve no more than 12 preschool and school aged children. With its proximity to Longfellow Elementary School and location in a walkable neighborhood, this home is an ideal place from which to offer these much needed childcare services.

We believe that the child care/nursery school use meets all of your standards:

- Standard A - This program would only contribute to the strong and valued sense of community in the Deering Center neighborhood. Ideally, families could walk or drive their older children to Longfellow Elementary School, and at the same time drop-off their younger child at the nursery school. In the afternoons, our staff can easily walk children from Longfellow to the after-school program and parents can pick-up their children after work. As this neighborhood is already home to a public school, there is nothing distinctive or unique about this use in this particular neighborhood.
- Standard B - There will be no adverse impact upon the health, safety, or welfare of the public or surrounding area. The small scale of the school combined with the limited daytime hours of operation would truly limit any negative impact upon the neighborhood. A garage fully encloses our trash and recycling receptacles. Our outdoor play area will be completely fenced in and landscaped to reduce the noise impact on neighbors.
- Standard C - Our garage parks two cars for staff and there is ample street parking to accommodate families dropping-off/picking-up their children, many of whom are likely to walk. Many neighbors and Longfellow families already use the street for parking. Due to the diverse work and school schedules of neighbors, cars are often coming and going throughout the day so this kind of use, at this scale would not create any significant traffic impact.

Please find enclosed the support documents requested on the application. We have been informing abutting and nearby neighbors and have received great encouragement. Once we have City approval, we will submit an application to the State Department of Health and Human Services. We will also be working with both the State Fire Marshall and the City Building Inspection Department to ensure that our house provides the necessary fire and safety provisions.

Thank you for your time and consideration. You may contact me at 766-7767 if you need any further information.

Sincerely,

Jeff Borland, Property Owner

Debra Flynn, Business Partner
Rosemont Nursery School

THIS IS NOT A BOUNDARY SURVEY

INSPECTION OF PREMISES

I HEREBY CERTIFY TO Old Port Title Co.

249 Concord Street West
Portland, Maine

Job Number: 415-34

Inspection Date: 02-08-12

Scale: 1" = 20'

The monumentation is ~~not~~ in harmony with current deed description.

The building setbacks are ~~not~~ in conformity with town zoning requirements. "Grandfathered"

The dwelling does not ~~appear to~~ fall within the special flood hazard zone as delineated by the Federal Emergency Management Agency.

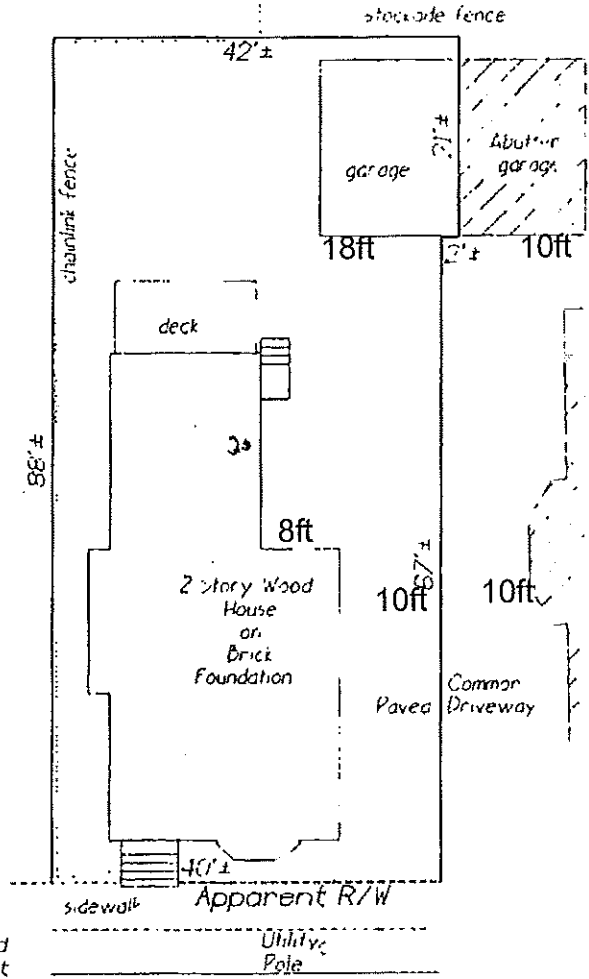
The land does not ~~appear to~~ fall within the special flood hazard zone as indicated on community-panel # 230051 0007 B.

BUYER: Jeffery Borland
SELLER: J P Morgan Chase

RECEIVED

MAR - 5 2012

Dept. of Building Inspections
City of Portland Maine



Concord Street West
(bituminous)

[Handwritten signature]

THIS PROPERTY IS SUBJECT TO ALL RIGHTS AND EASEMENTS OF RECORD THOSE THAT ARE EVIDENT ARE SHOWN THIS PLAN MIGHT NOT REVEAL CONFLICTS WITH ABUTTING DEEDS

Bruce R. Bowman
INCORPORATED
184 John Small Road
Chebeague Island, Maine 04017
Phone: (207) 846-1663
Fax: (207) 846-1664

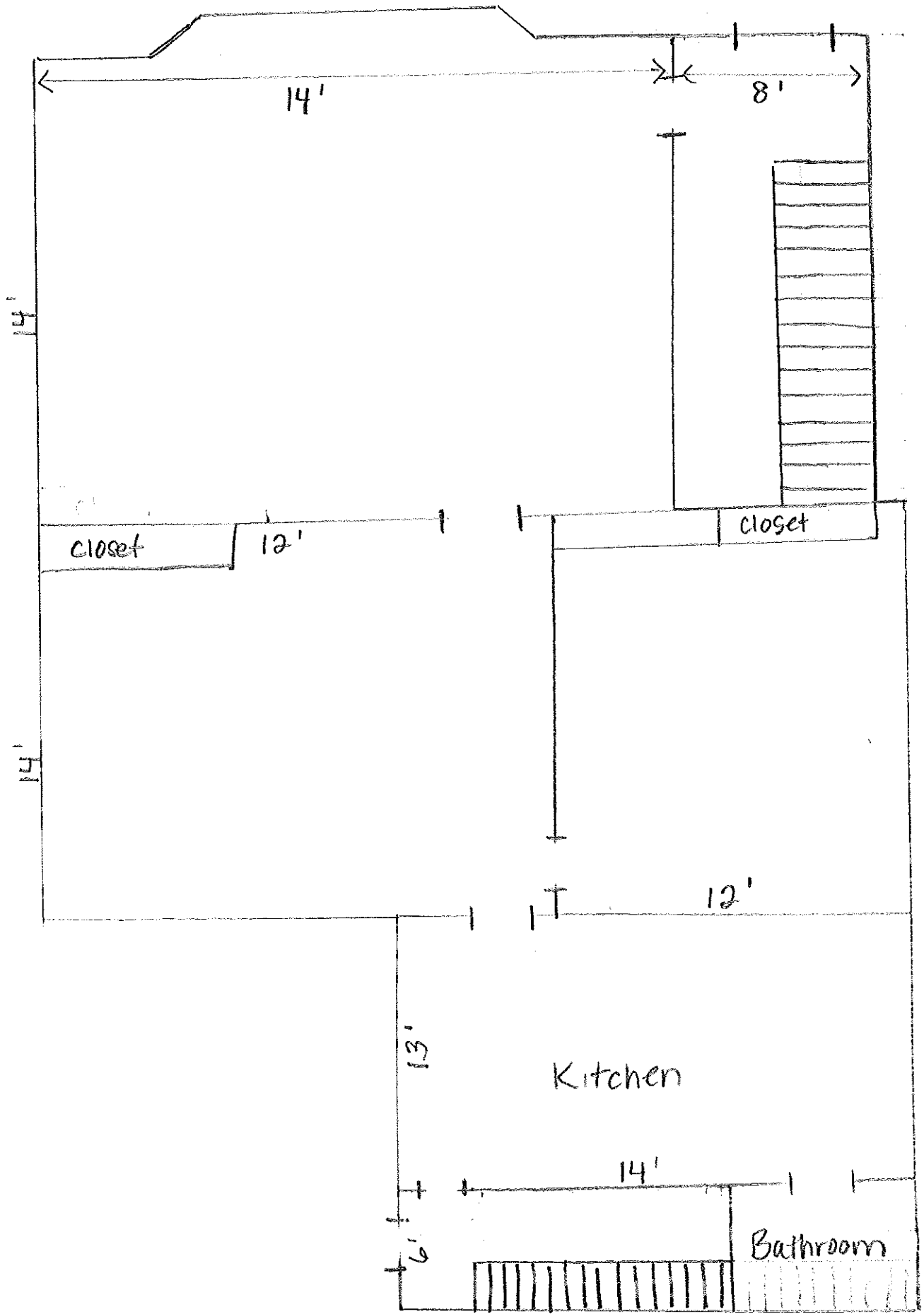


PLAN BOOK _____ PAGE _____ LOT _____
DEED BOOK 28153 PAGE 83 COUNTY Cumberland

THIS PLAN IS NOT FOR RECORDING

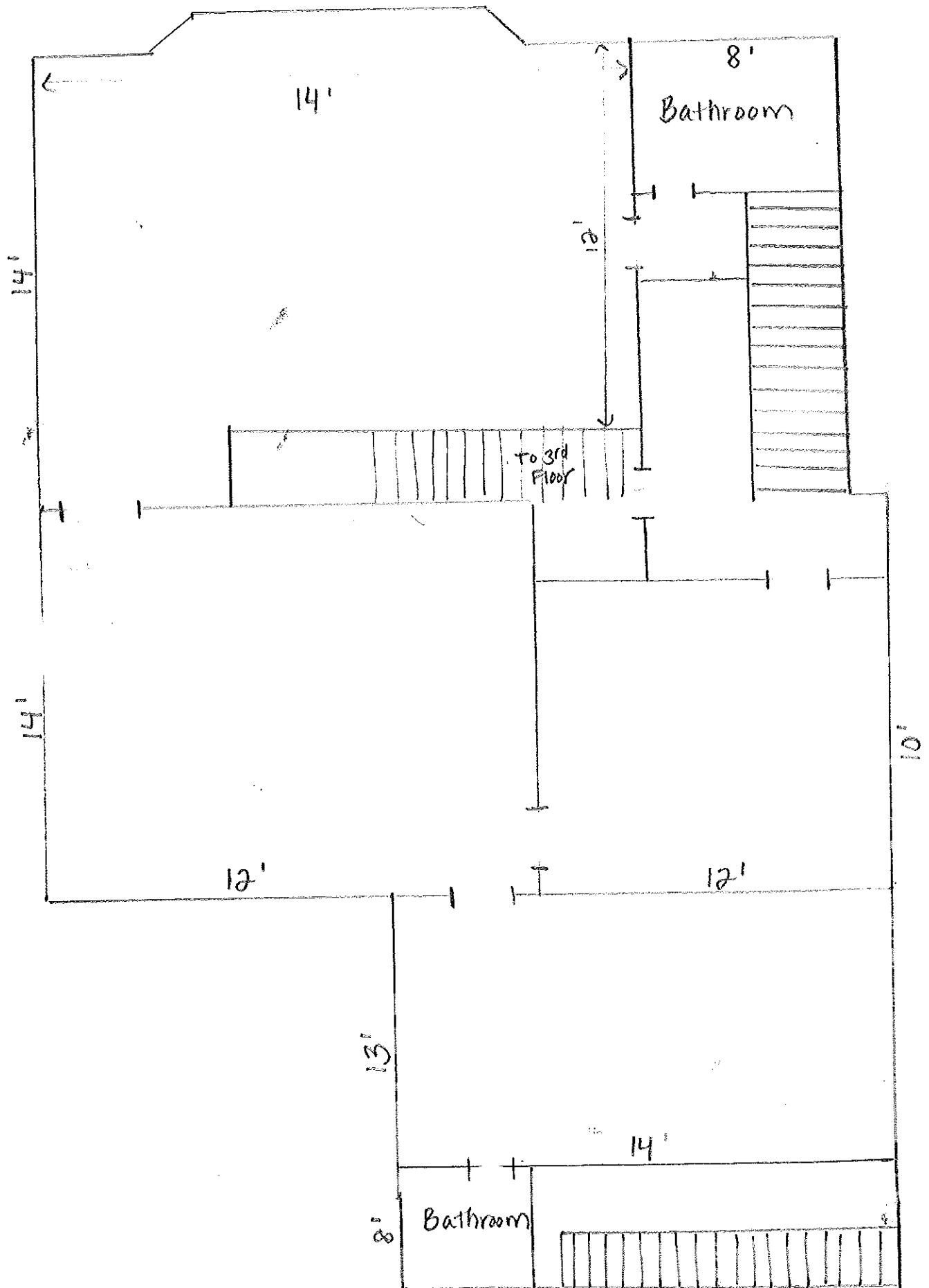
Drawn by: *[Signature]*

Front of House



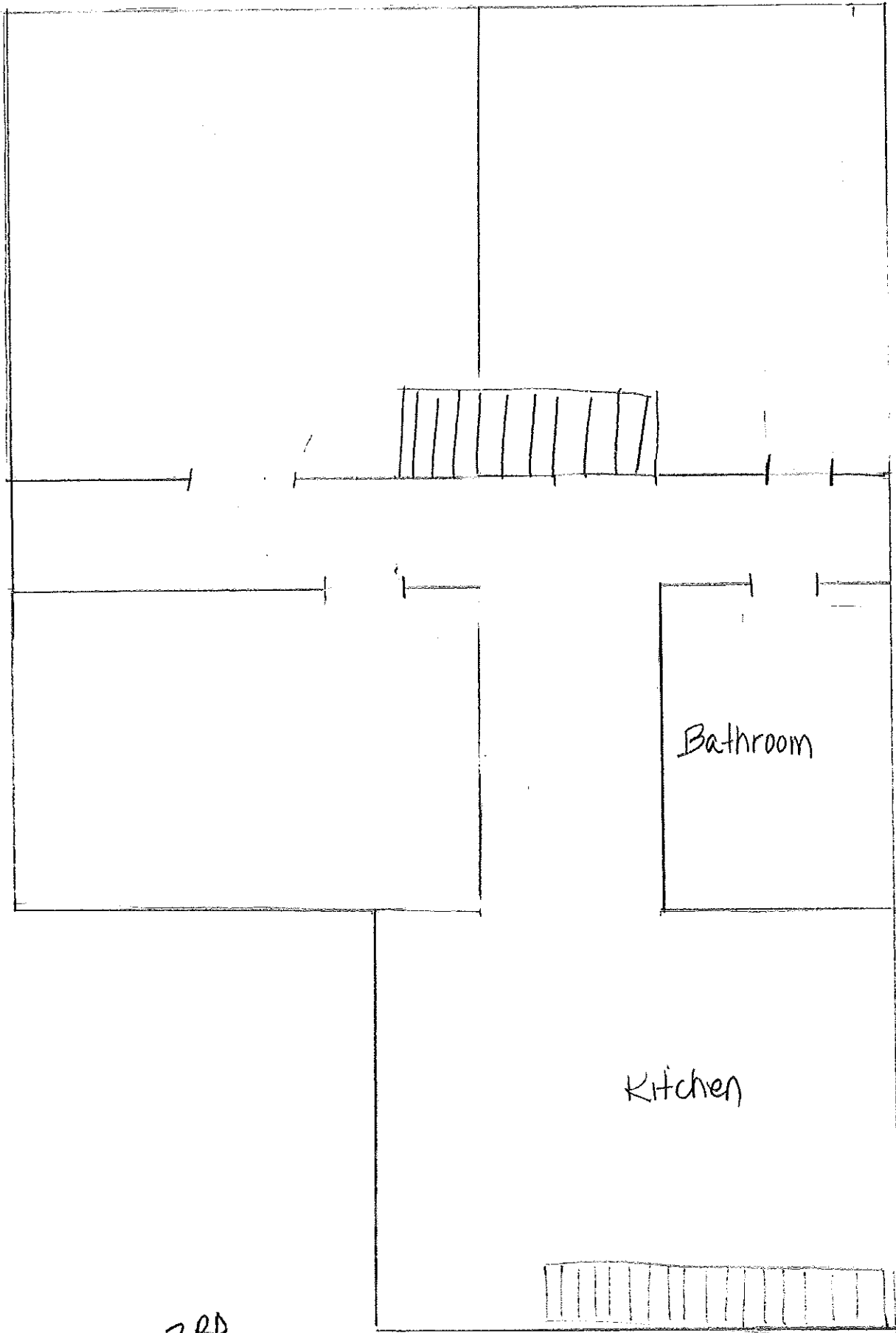
1st FLOOR

Front of House



2nd FLOOR

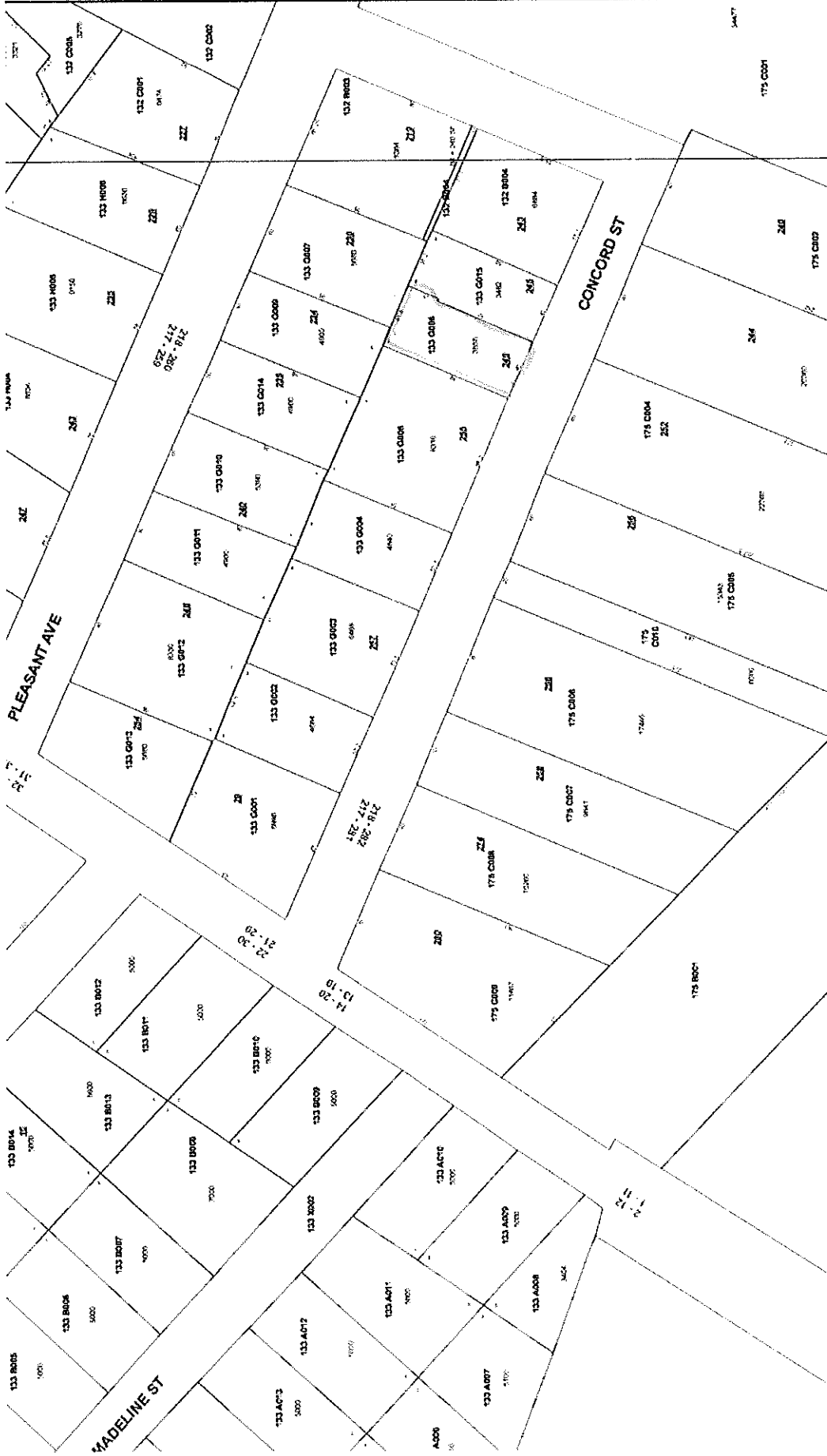
Front of House



Stairs?

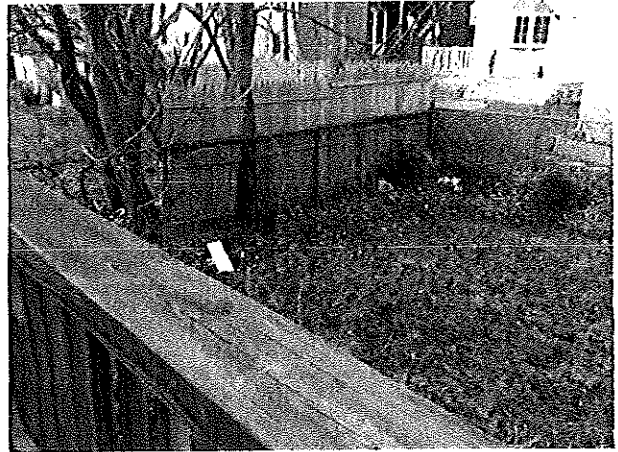
3RD FLOOR

165E





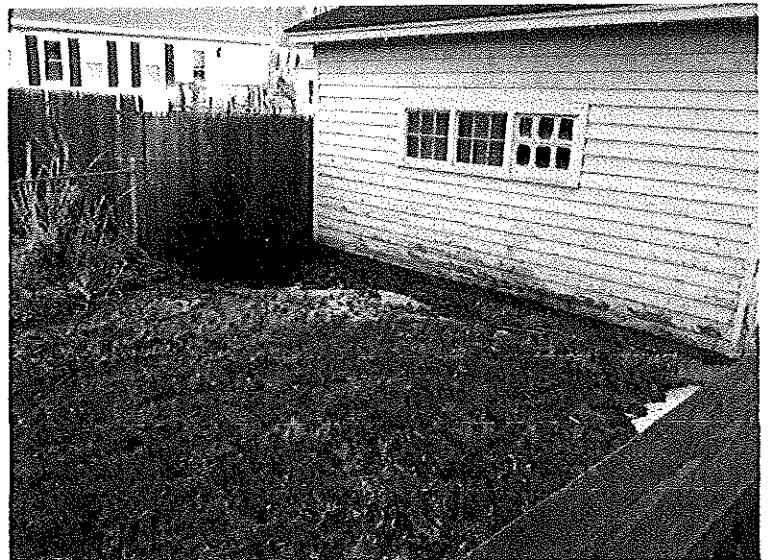
From street



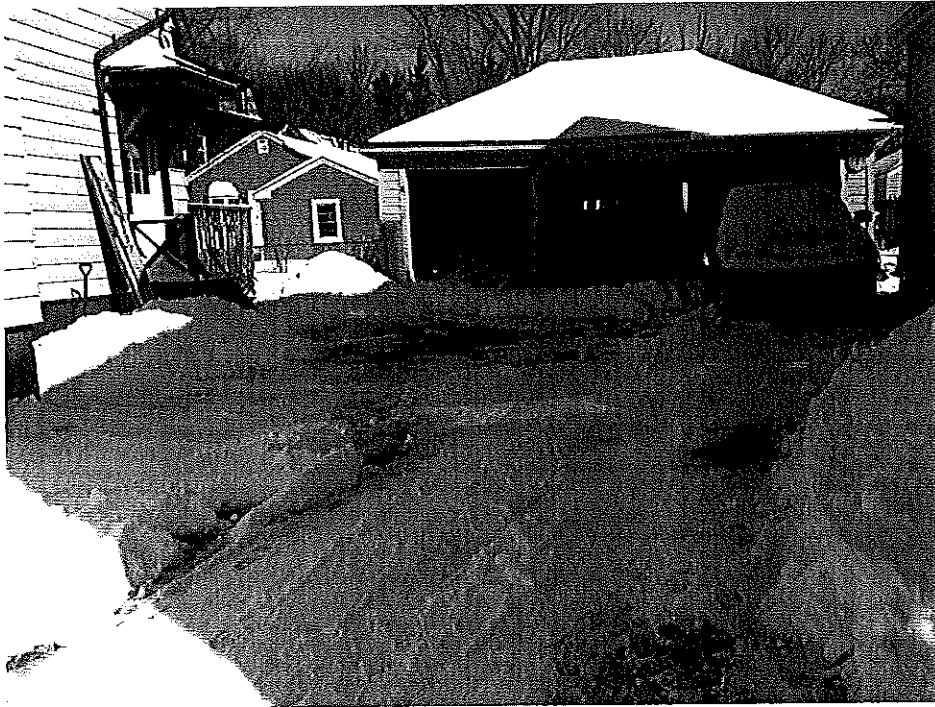
Backyard



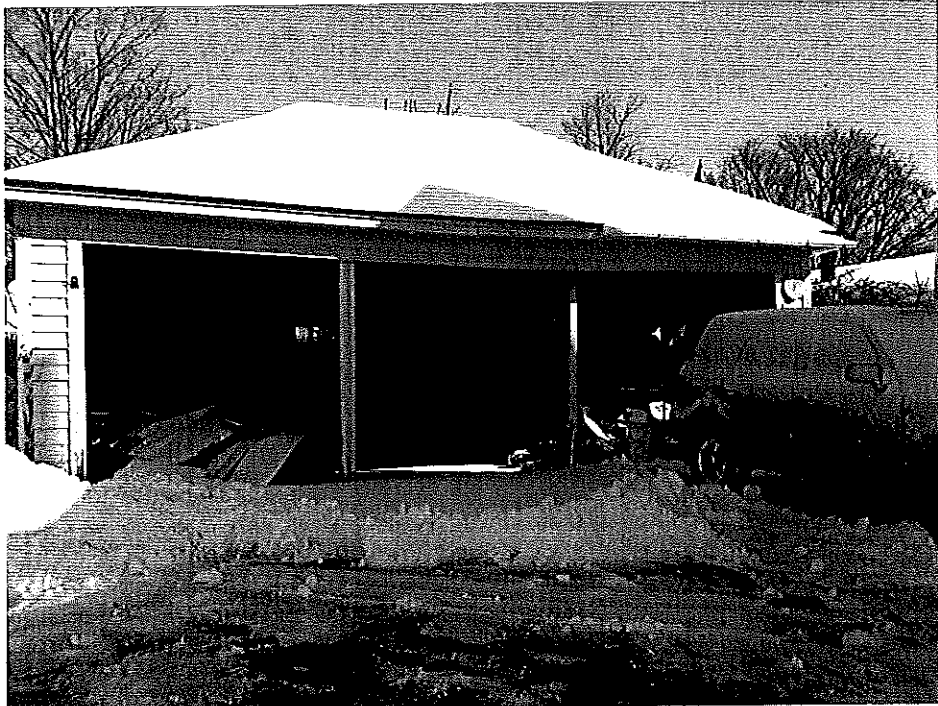
Back porch



Garage from back yard



Garage from end of driveway



Garage close-up

Commitment Number: 2394813
Seller's Loan Number: 5304308454

After Recording Return To:
ServiceLink Hopewell Campus
4000 Industrial Boulevard
Aliquippa PA 15001
(800) 439-5451

**PROPERTY APPRAISAL (TAX/APN) PARCEL IDENTIFICATION NUMBER
133-G-006-001**

QUITCLAIM DEED WITH COVENANTS

MAINE REAL ESTATE TAX PAID

JPMorgan Chase Bank, National Association, whose mailing address is 7301 Baymeadows Way, 2nd Floor, Jacksonville, FL 32256, Mail Code: FL5-7317, hereinafter grantor, for \$167,100.00 (One Hundred and Sixty-Seven Thousand One Hundred Dollars and no Cents) in consideration paid, grants with a quitclaim covenant to Jeffrey Borland, married, hereinafter grantee, whose tax mailing address is 36 Runnells St., Portland, ME 04103, the property described below in the legal description and that Grantor's quitclaim covenant to the Grantees shall have the full force, meaning and effect of the following: Grantor, its heirs and assigns, will warrant and forever defend the premises to the said Grantees, their heirs and assigns forever, against the lawful claims and demands of all persons claiming by, through or under the Grantor and no other claims whatsoever:

All that certain parcel of land situated in the City of Portland, County of Cumberland, State of Maine, being known and designated as follows:

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland on the northerly side of Concord Street and bounded and described as follows:

Commencing at a point in the northerly side line of Concord Street, said point being distant in a northwesterly direction three hundred thirty-two and sixty-two hundredths (332.62) feet from the intersection of said line of Concord Street with the westerly line of Stevens Avenue;

Thence Northeasterly and at right angles to said line of Concord Street, sixty-seven (67) feet to a point; Thence Southeasterly and at right angles to the last described line, one and eight-tenths (1.8) feet to a point;

Thence Northeasterly and at right angles to last described line, a distance of twenty-one (21) feet to a point and fence;

Thence Northwesterly by said fence and parallel to said line of Concord Street, forty-one and eight-tenths (41.8) feet to a point; thence Southwesterly eighty-eight (88) feet to said line of Concord Street;

Thence Southeasterly and along said line of Concord Street, forty (40) feet to the point of beginning.

TOGETHER WITH the right to pass and repass over the driveway about eight (8) feet wide, extending from said Concord Street to the garage located partially on the lot hereby conveyed and partially on the adjoining lot Southeasterly thereof. Said driveway being partially on the lot hereby conveyed and partially on said adjoining lot.

SUBJECT TO the right of the owner of the adjoining lot southeasterly of the lot hereby conveyed to pass and repass over said driveway. No automobile shall park in said driveway and no obstruction shall be placed thereon.

Meaning and intending to describe and mortgage the same premises conveyed to the mortgagor(s) by deed recorded in the Cumberland County Registry of Deeds in Book 21202 at Page 345.

Property Address is: 249 Concord Street West, Portland, ME 04103

Seller makes no representations or warranties, of any kind or nature whatsoever, other than those set out above, whether expressed, implied, implied by law, or otherwise, concerning the condition of the title of the property prior to the date the seller acquired title.

The real property described above is conveyed subject to the following: All easements, covenants, conditions and restrictions of record; All legal highways; Zoning, building and other laws, ordinances and regulations; Real estate taxes and assessments not yet due and payable; Rights of tenants in possession.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title interest, lien equity and claim whatsoever of the said grantor, either in law or equity, to the only proper use, benefit and behalf of the grantee forever.

Prior instrument reference: Official Records Book 28153, Page 83

AM

Executed by the undersigned on 2-20, 2012:

JPMorgan Chase Bank, National Association

By: [Signature]

Name: Anna Michals
Vice President

Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me on _____, 2012 by
its _____ on behalf of JPMorgan
Chase Bank, National Association, who is personally known to me or has produced
as identification, and furthermore, the aforementioned person has
acknowledged that his/her signature was his/her free and voluntary act for the purposes set forth
in this instrument.

** See Attached*

Notary Public

This instrument prepared by:
Jay A. Rosenberg, Esq., Rosenberg LPA, Attorneys At Law, 7367A E. Kemper Road,
Cincinnati, Ohio 45249 (513) 247-9605 Fax: (866) 611-0170 and William R. Dunn, Attorney at
Law, 16 Thomas Drive, Berwick, ME 03901, Maine Bar Number: 002192.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

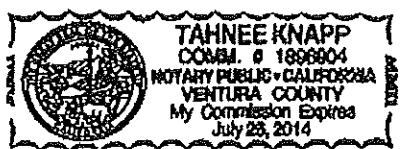
County of Los Angeles

On 2/20/12 before me, Tahnee Knapp, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Anna Michalakis
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Received
Recorded Register of Deeds
Feb 24, 2012 02:13:39P
Cumberland County
Pamela E. Lovley



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Tahnee Knapp
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document: Quit Claim deed

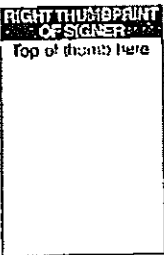
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Anna Michalakis

- Individual
- Corporate Officer — Title(s): Vice President
- Partner — Limited : : General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited : : General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

AM



City of Portland Zoning Board of Appeals

March 6, 2012

Jeffrey Borland
36 Runnells Street
Portland, ME 04103

Dear Mr. Borland,

Your Practical Difficulty Appeal and Conditional Use Appeal have been scheduled to be heard before the Zoning Board of Appeals on **Thursday, March 15, 2012 at 6:30 p.m.** in Room 209, located on the second floor of City Hall.

Please remember to bring a copy of your application 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 bill for the processing fee, legal ad and the notices for the appeals. 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



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Receipts Details:

Tender Information: Check , Check Number: 1207

Tender Amount: 100.00

Receipt Header:

Cashier Id: amachado

Receipt Date: 2/27/2012

Receipt Number: 41283

* Notus, Legal Ad!
Processing fee all charged
under Practical Difficulty by Appeal
2012-437

Receipt Details:

Referance ID:	1502	Fee Type:	PZ-Z1
Receipt Number:	0	Payment Date:	
Transaction Amount:	100.00	Charge Amount:	100.00
Job ID: Project ID: 2012-438 - 249 Concord St. W - Conditinal Use			
Additional Comments:			

Thank You for your Payment!

Ann Machado - Re: Zoning Board of Appeals Legal Ad

From: Joan Jensen <jjensen@pressherald.com>
To: Ann Machado <AMACHADO@portlandmaine.gov>
Date: 3/5/2012 4:13 PM
Subject: Re: Zoning Board of Appeals Legal Ad
Attachments: Portland 3:9.pdf

Hi Ann,

All set to run your ad on Friday, March 9.
The cost is \$152.04 includes \$2.00 online charge. I included a proof.
Thank you,
Joan

** invoiced under
Practical Affinity
Appeal*

--
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

On 3/5/12 9:38 AM, Ann Machado wrote:

Joan -

Attached is the Zoning Board of Appeals legal ad for Friday, March 9, 2012.

Thanks.

Ann
874-8709