

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

*Jeff Levine, AICP, Director*

*Marge Schmuckal, Zoning Administrator*

Silver Beach LLC &  
Elizabeth Brown  
c/o Barton Mortgage  
130 Middle Street  
Portland, ME 04101

June 6, 2014

Re: 83 Wellwood Road – 149-G-038 & 160- F- 040 – R-3 Residential Zone

Dear Mr. Barton & Ms. Brown,

At the June 5, 2014 meeting, the Zoning Board of Appeals voted 7-0 to grant the Conditional Use Appeal to add an accessory dwelling unit to the single family home that you are building. I am enclosing a copy of the Board's decision.

The Level I Minor Residential Site Plan Application (permit #2014-01059) is in the process of being reviewed by the Building and Planning Divisions. Once the building permit is issued, you have six months from the date of the meeting, June 5, 2014, referenced under section 14-474(f) to start work, or your Zoning Board approval will expire.

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

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## ZONING BOARD OF APPEALS

### ZONING BOARD APPEAL DECISION

**To:** City Clerk  
**From:** Marge Schmuckal, Zoning Administrator  
**Date:** June 6, 2014  
**RE:** Action taken by the Zoning Board of Appeals on June 5, 2014

**Members Present:** Sara Moppin (secretary), Gordon Smith (chair), Donna Katsiaticas, Eric Larsson, William Getz, Chip Gavin and Kent Avery

#### **1. New Business**

##### **A. Conditional Use Appeal:**

83 Wellwood Road, Silver Beach, LLC & Elizabeth D. Brown, owners, Tax Map 149, Block G, Lot 038 & Tax Map 160, Block F, Lot 040, R-3 Residential Zone: The applicants are seeking a Conditional Use Appeal under section 14-88(a)(2) to build an accessory dwelling unit as part of the new single family home that they are building. Representing the appeal is the owners' agent, William J. Mann. **The Zoning Board of Appeals voted 7-0 to grant the appeal to add an accessory dwelling unit to the new single family home being built.**

##### **Enclosure:**

Decision for Agenda from June 5, 2014

One DVD

CC: Mark Rees, City Manager

Jeff Levine, AICP, Director Planning & Urban Development

Alex Jaegerman, Planning Division

Mary Davis, Housing and Neighborhood Services Division

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

Board Members  
Present:  
Chip Gavin  
Kent Avery  
William Betz  
Gordon Smith  
Sara Moppin  
Dana Katorafkas  
Erik Laurson

R-3 Residential Zone Accessory Unit:

**Conditional Use Appeal**

**DECISION**

Date of public hearing: June 5, 2014

Name and address of applicant: Silver Beach, LLC & Elizabeth Brown  
c/o Barton Mortgage  
130 Middle Street  
Portland, ME 04101

Location of property under appeal: 83 Wellwood Road

For the Record:

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

William Mann - on behalf of Applicant

Danielle Vias - 87 Torrey St

Ben Bernard - 38 Torrey St

Barbara Furwood - 55 Wellwood

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

Savin ? -  
43 Wellwood  
Road

Mike ? - 18 Lorraine  
Street

letter from Jackie Cohen - 316 Ocean Ave

email from John Darling dated 6/5/2014

email from Kaia Vayenas dated 6/5/2014

email from Ben Bernard dated 6/5/2014

Findings of Fact and Conclusions of Law:

Applicant is proposing to add an in-law apartment to the first floor of the single family home they are constructing on this lot. The gross floor area of the principal building will be 2832 sq. feet. The accessory unit will be 624 sq. feet (22%). The lot size is 32,842 sq. ft.

A. Conditional Use Standards pursuant to Portland City Code §14-88(a)(2):

1. The accessory unit shall be no more than thirty (30) percent of the gross floor area of principal building and shall have a minimum floor area four hundred (400) square feet; gross floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit.

Satisfied 1 Not Satisfied 0

Reason and supporting facts:

The accessory unit will be 22% of total gross floor area and that unit will be 624 sq. feet

2. There shall be no open outside stairways or fire escapes above the ground floor.

Satisfied 1 Not Satisfied 0

Reason and supporting facts:

Per plans, no outside stairs above the ground floor are indicated

3. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling.

Satisfied 7 Not Satisfied 0

Reason and supporting facts:

The unit will be built at same time as entire home and will be integrated into larger unit

4. A minimum lot size of six thousand five hundred (6,500) square feet of land area shall be required.

Satisfied 7 Not Satisfied 0

Reason and supporting facts:

The lot size is 32,842 sq. ft.

5. No dwelling unit shall be reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic.

Satisfied 7 Not Satisfied 0

Reason and supporting facts:

Main unit will be over 2000 square feet and ~~any other unit~~ will not be reduced in size.

6. Parking shall be provided as required by division 20 of this article: 1 off-street parking space per new unit (14-332(a)(2)).

Satisfied 7 Not Satisfied 0

Reason and supporting facts:

Per plans and applicant testimony ~~garage~~ there will be at least  
3 off street parking spaces

7. Either the accessory unit or principal unit shall be occupied by the lot owner, except for bona fide temporary absences.

Satisfied 7 Not Satisfied 0

Reason and supporting facts:

Per applicant testimony and  
submittal the owner will  
occupy the main unit  
as their primary residence



Conclusion: (check one)

7-0 vote

Option 1: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application.

Option 2: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied, and that while not all of the conditions (1 through 3) described in section B above are present, 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:

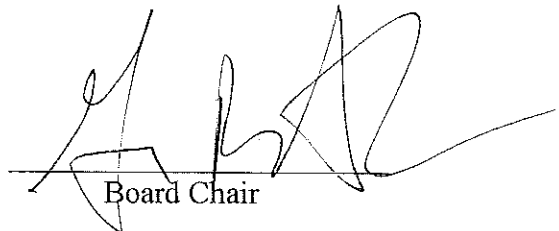
Option 3: The Board finds that not all of the standards (1 through 7) described in section A above have been satisfied and/or that all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

Please note that, pursuant to Portland City Code 14-88(a)(2)(i), if approved the project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:

1. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building; and

2. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

Dated: 6/5/2014

  
Board Chair



Present: All members; Gordon - Sara - Donna - Eric  
Bill Getz - Chip - Kurt

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

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called to order: 6:35 pm

Approved  
7-0

R-3 Residential Zone Accessory Unit:

**Conditional Use Appeal**

**DECISION**

Date of public hearing: June 5, 2014

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Name and address of applicant: Silver Beach, LLC & Elizabeth Brown  
c/o Barton Mortgage  
130 Middle Street  
Portland, ME 04101

Location of property under appeal: 83 Wellwood Road

**For the Record:**

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

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

Adjourned 7:40 pm

# WJM CONSULTING, LLC

90 Roaring Brook Road • Portland, ME 04103 • 207-831-0700 • 207-797-6001 • billihelp@gmail.com

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Via Hand Delivery

June 4, 2014

Mr. Gordon Smith, Chairman Zoning Board of Appeals  
c/o Ms. Ann Machado, Zoning Specialist and Ms. Marge Schmuckal, Zoning Administrator  
Zoning Administration ~ Planning & Urban Development Department  
City of Portland ~ Portland City Hall Room 315  
389 Congress Street  
Portland, ME 04101

RE: Application for Conditional Use Appeal  
Per City of Portland Code of Ordinances Section 14-88 a, 2: Alteration or construction of a detached single-family dwelling to accommodate one (1) additional dwelling unit for the benefit of the homeowners or tenants, provided that:  
Location: 83 Wellwood Road, Portland, Maine  
Owners: Silver Beach, LLC and Elizabeth D. Brown

Dear Mr. Smith and Fellow Zoning Board Members:

Earlier today I was asked to address specifically the following STANDARDS (items #1 thru #3, below)) as part of the Conditional Use Application referenced above. My responses, on behalf of my clients, to each of the standards follow each item and are in are in ***BOLD italics***.

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:

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use;

***There are no unique or distinctive characteristics associated with the proposed conditional use. The proposed use conforms to all residential (R-3) zone use and ordinance as well as existing like kind uses within the R-3 zone.***

2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and

***There will be no an adverse impact upon the health, safety, or welfare of the public or the surrounding area with the proposed conditional use because the use is residential in nature, being established to offer family oriented occupancy with no adverse impacts on existing neighborhood R-3 zone uses what so ever.***

3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

***Such impact does not differ from the impact which would normally occur from such a use in that zone. This proposed use is a residential family oriented use that is prevalent within the immediate and abutting neighborhoods and the establishment of this use is no different than the establishment of existing single family/accessory dwelling properties within the neighborhood and R-3 zone.***

I believe this addresses these standards; if you have further questions I would be more than happy to respond.

Again, I look forward to presenting my clients' request for this conditional use in person at the meeting on June 5, @ 6:30 p.m. at City Hall. Please reach out to me with any questions at: 207-831-0700 or [billihelp@gmail.com](mailto:billihelp@gmail.com). On behalf of my clients we thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "William J. Mann". The signature is written in a cursive style with a prominent loop at the end.

William J. Mann

WJM Consulting, LLC

Consultant to SILVER BEACH, LLC & Elizabeth D. Brown

Department of Planning & Urban Development

Marge Schmuckal  
Zoning Administrator

Jeff Levine  
Director Planning & Urban Development



RECEIVED

MAY 19 2014

**CITY OF PORTLAND**  
**ZONING BOARD OF APPEALS**  
*Conditional Use Appeal Application*

Dept. of Building Inspections  
City of Portland Maine

**Applicant Information:**

**Subject Property Information**

Silver Beach, LLC and Elizabeth D. Brown  
NAME

83 Wellwood Road  
PROPERTY ADDRESS

Silver Beach, LLC and Elizabeth D. Brown  
BUSINESS NAME

149-G-38 and 160-F-40  
CHART/BLOCK/LOT (CBL)

c/o Barton Mortgage - 130 Middle Street  
ADDRESS  
Portland, Maine 04101

PROPERTY OWNER (if different)  
NAME

207-831-0700 - Bill Mann, WJM Consulting, LLC  
TELEPHONE #

ADDRESS

Owner  
APPLICANT'S RIGHT, TITLE OR INTEREST  
(eg; owner, purchaser, etc)

CONDITIONAL USE AUTHORIZED BY  
SECTION 14 - 88 (a)2(a thru j)

R-3  
CURRENT ZONING DESIGNATION

**EXISTING USE OF PROPERTY:**

TYPE OF CONDITIONAL USE  
PROPOSED:  
Single family home with Accessory/  
Auxiliary living unit.

Approved Building Lot

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:

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

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

*The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.*

*Elizabeth D. Brown*  
SIGNATURE OF APPLICANT by: Deron W. Barton, Mbr. Silver Beach, LLC DATE May 19, 2014

# WJM CONSULTING, LLC

90 Roaring Brook Road • Portland, ME 04103 • 207-831-0700 • 207-797-6001 • [billihelp@gmail.com](mailto:billihelp@gmail.com)

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Via Hand Delivery

May 21, 2014

Planning & Urban Development Department  
Inspections Division  
City of Portland  
City Hall  
389 Congress St. Rm. 315  
Portland, ME 04101

RE: Application Submission Level 1- Minor Residential Development Review Application  
Location: 83 Wellwood Road, Portland, Maine  
Owners: Silver Beach, LLC and Elizabeth D. Brown  
Disc with Replacement File: A1-1 First Floor Plan.pdf

Ladies and Gentlemen:

In follow-up to our submission of the above referenced application last week enclosed with this letter please find our Compact Disc with the above referenced replacement file (keeping the same name as the original file).

Please direct any questions to either myself at 207-831-0700 or [billihelp@gmail.com](mailto:billihelp@gmail.com) or Reid Tozier who may be contacted at 207-838-0927 or [reidtozier@gmail.com](mailto:reidtozier@gmail.com).

On behalf of our clients we thank you in advance for your assistance.

Sincerely,



William J. Mann  
WJM Consulting, LLC  
Consultant to SILVER BEACH, LLC & Elizabeth D. Brown

Enclosure – Compact Disc containing digital replacement file.

cc:

w/ enclosed disc – Ann Machado, Zoning Specialist – City of Portland – Via hand Delivery

w/o Enclosures to: Reid Tozier

SILVER BEACH, LLC c/o Deron Barton  
Elizabeth D. Brown

Received by:

City of Portland ~ Planning & Urban Development Department - Inspections Division ~ City Hall ~ Rm. 315

City Stamp

Received by:

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Printed Name & Title

# WJM CONSULTING, LLC

90 Roaring Brook Road • Portland, ME 04103 • 207-831-0700 • 207-797-6001 • billihelp@gmail.com

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Via Hand Delivery

May 19, 2014

Ms. Ann Machado, Zoning Specialist  
Planning & Urban Development  
City of Portland ~ Portland City Hall  
389 Congress Street  
Portland, ME 04101

RE: Application Submission Conditional Use Appeal Application  
Location: 83 Wellwood Road, Portland, Maine  
Owners: Silver Beach, LLC and Elizabeth D. Brown  
Accompanying Compact Dis with supporting documents.

Dear Ann,

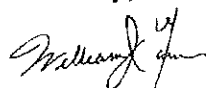
In follow-up to our phone conversation of earlier today, enclosed with this letter are the following:

- Completed Conditional Use Appeal Application
- Check for \$100.00 as required for Application
- Compact Disc with supporting documents.
- Tax Map

As discussed when we spoke earlier, it is my understanding that this matter will go before the Zoning Board of Appeals at their June 5, 2014 meeting and that the review of the Level I – Minor Residential Development Review Application will go forward simultaneously and that it is your expectation, again based upon our earlier conversation, that the Building permit for the home may be issued on or about June 6, 2014.

Please reach out to me with any questions at: 207-831-0700 or [billihelp@gmail.com](mailto:billihelp@gmail.com).  
On behalf of our clients we thank you in advance for your assistance.

Sincerely,



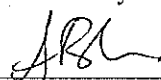
William J. Mann  
WJM Consulting, LLC  
Consultant to SILVER BEACH, LLC & Elizabeth D. Brown

Enclosures – as noted above

cc: w/o Enclosures to: Reid Tozier  
SILVER BEACH, LLC c/o Deron Barton  
Elizabeth D. Brown

Received by:  
City of Portland ~ Planning & Urban Development Department  
City Stamp

Received by:



5/19/14

Ann B. Machado

Printed Name & Title

Zoning Specialist

## WJM Talking Points

June 5, 2014 – 6:30 p.m.  
Portland City hall Room 209

To: File

Fr: William Mann

RE: 83 Wellwood Road – Conditional Use - ZBA Meeting

On behalf of my clients, Deron Barton and Liz Brown I want to thank Chairman Smith and the other members of the Board for their time and consideration.

We come before you this evening with a request for the approval of an accessory unit that is in compliance with all of the criteria for such a use. My clients declaration of their intent to include an accessory unit has been clear for some time – to the point where written reference to same was included in the Deed from the City of Portland in the Spring of 2012 which consummated a land swap allowing for access to the subject lot from Wellwood Road with a decreased environmental impact by virtue of the shorter and smaller paved drive than would have been the case under the original Torrey Street access plan.

As part of this land swap my clients agreed to grant a permanent right of way/easement to insure perpetual access to Canco Woods via Wellwood Road.

My clients have done all they can to comply with both the letter and spirit of the City's permitting and approval process. The subject request is in full compliance with the standards for such a conditional use and it is our understanding that approval is supported by the City's Planning staff.

I could provide further background, however, rather than cover what you have already reviewed in your packages and what you may already know out of respect for your time I will pause here and would welcome and be happy to answer any of your questions.

Lastly, I have been made aware of several items of public comment that have been submitted in the last day or so with questions or concerns about my client's project. So far none of these appear to be related to the Conditional Use request before this Board. Several have to do with the permitting process which is underway and with which my clients are working with City staff in the ordinary course. My clients have met with anyone who has come forward for dialogue; doing so as recently as this past Saturday - at the subject home lot. My clients have been and want to be good neighbors but frankly they have rights too and the public comment I have been provided is simply not germane to the matter before this Board. Therefore, on behalf of my clients, I would respectfully ask the Chair to limit public comment to the specific matter that is before this Board.

Thank You for your consideration.



**Print**

Date: Friday, May 30, 2014 4:08 PM  
From: Jacki Cohen <jacki316@maine.rr.com>  
To: Barbara Fiore <bfiore@maine.rr.com>  
Subject: Barton appeal

Jacki Cohen  
316 Ocean Ave  
Portland, ME 04103

My concerns about the Barton Request for a Conditional Use Permit on Wellwood Road are as follows:

1. Where will their driveway be located in relation to the dead end street? There is no turnaround for plows at the end of the street.
2. The land slopes up from the end of the street. How will drainage on the lot be handled during and after construction? Will stormwater be diverted so that it does not go into Wellwood Road and create ice in the winter?

Jacki Cohen

June 5, 2014

Barbara Fiore  
Anders Larson  
55 Wellwood Rd  
Portland, ME 04103

1: Welcome to our new neighbors- this is a great neighborhood- we hope they will be happy here and feel welcome by all.

2: Thank you for the right-of-way to access the woods we worked so hard to preserve for the city of Portland.

3: Their right to build: request to have trail access from Frye St side.

4: Concerned about how construction will alter the water drainage

- dry basements now...
- vernal pools that exist now: how will they be impacted?
- conversely: will they back up water to the point of drowning the trees?
- used to be a skating pond on the far side of Torrey St.. would be great to see the water re-directed to this location for the sake of habitat and neighborhood recreation (see googlemaps)

5: Concern for habitat in general with the loss of big trees and undergrowth

- owls & other birds of prey seen here
- deer
- woodcock
- various migrating birds

6: with respect to the variance to build an additional building: concern about traffic

Anders Larson  
Barbara Fiore

**Ann Machado - 83 Wellwood Road Zoning Hearing**

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**From:** "Ben Bernard" <benbernard@sprintmail.com>  
**To:** <amachado@portlandmaine.gov>  
**Date:** 6/5/2014 1:33 PM  
**Subject:** 83 Wellwood Road Zoning Hearing

**RECEIVED**

JUN - 5 2014

Good afternoon Ann,

I'd like to submit the following comment for the hearing this evening:

Dept. of Building Inspections  
 City of Portland Maine

Dear Members of the Zoning Board of Appeals,

In his application for the conditional use appeal for the lot at 83 Wellwood, Mr. Mann claims that "In 2012 as part of the larger effort to preserve the abutting Canco Woods as open space, my clients delayed the construction of their new home and worked with the City of Portland to complete a land swap that provided a trail easement along the edge of their property that would allow the Wellwood neighborhood to have access to the Canco Woods recreation area."

While the individual elements of this are true, taken as whole I feel this claim is misleading. Around the time that Friends of Canco Woods was working to protect Canco Woods, the Bartons did approach the city for a land swap. The purpose of their request (as stated in the City Council Agenda of 4/23/2012) was "to obtain the minimum width of 50 feet of street access to build a single-family house on its lot 149-G-38." The swap covered a "spite-strip" which prevented them from accessing their property from Wellwood, and would have required them to extend Torrey St. and build a substantially longer driveway to access their property. As a condition of this very advantageous (to the Bartons) swap, the City required the public access easement.

Mr. Mann's presentation of these events in his application could lead one to believe that it was the effort to preserve Canco Woods that caused the delay in his clients' construction plans. I have asked Mr. Barton to clarify his application to avoid that erroneous implication, but in case that has not happened, I feel compelled to make the clarification myself. While the spite-strip swap did provide benefit to the neighborhood in the form of alternative access to the woods, the delays in the construction project were in no way caused by our efforts to preserve Canco Woods.

Many of us as neighbors are concerned with the impact the project will have on the trail easement and on the abutting woods. Several of us met with Mr. Barton last weekend seeking assurances that the grading plans would not, as they appear from our (admittedly inexpert) reading of his maps, result in shifting the existing drainage away from the proposed house site and towards (or perhaps even into) the trail easement. The grading lines also suggest the need for substantial tree removal, which is likely to increase runoff issues and further impact both the trail and the abutting woods.

While I appreciate Mr. Barton's willingness to discuss his plans with us and his verbal assurances that he intends to minimize these impacts as much as possible, I don't feel that verbal assurances are sufficient. I believe that the City has a responsibility to protect the trail easement, and would like to see plans for such protection and for preventing excess runoff triggered by the tree clearing from impacting the abutting woods submitted to the city in writing before this conditional use is granted.

Mr. Mann mentions in his application that "it was never disclosed to my clients that they would need to seek approval from the Zoning Board of Appeals to proceed forward." While that is indeed unfortunate, I feel that it was Mr. Mann's responsibility to know the Portland zoning ordinance and inform his clients of the need for a

conditional use permit for the accessory dwelling unit. There is no mention of this accessory unit in the City Council agenda of 4/23/2012, and although it is mentioned in the supporting documentation for the transaction, I do not feel that justifies rushing approval of this appeal through without first ensuring proper safeguards for the trail easement and abutting woods.

Respectfully yours,

Ben Bernard

Please note that I am writing in my personal capacity as a neighbor and not in my role as president of the the Friends of Canco Woods. Thee opinions are my own and do not represent the membership of that organization.

**Ann Machado - Questions re: Zoning BoA meeting**

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**From:** "Vayenas, Kaia" <Kaia.Vayenas@td.com>  
**To:** "amachado@portlandmaine.gov" <amachado@portlandmaine.gov>  
**Date:** 6/5/2014 12:50 PM  
**Subject:** Questions re: Zoning BoA meeting  
**CC:** Kaia Vayenas <kvayenas@icloud.com>, Danielle Vayenas <dvayenas@mac.com>

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Hi Ann –

I'd like to submit the following questions/comments on behalf of my sister Danielle and myself re: the Level I Minor Residential Development application for 83 Wellwood Road that's being discussed at the Zoning Board of Appeals hearing tonight.

- 1) Overall, we are concerned that the increased footprint relative to the "accessory dwelling unit," which includes a second garage (which is much larger than the "modest"/approx. 2,000 sf home Deron Barton described back in 2012 when we discussed the easement swap), may potentially have adverse impacts on the surrounding properties and/or environment.
- 2) We and a handful of neighbors met with Deron Barton last weekend and he went over the plans and walked the property with us, but we still have some outstanding questions and concerns that he wasn't able to answer.
- 3) One of the main concerns is what's going to happen to mitigate the water that's currently going through his property – he showed a field drain and culvert in the plans, but it's not entirely clear where the water will go both within the property as well as the egress out onto Wellwood. The concern is potential backups/flooding into surrounding properties and/or into the Canco Woods recreational area, which over the years has experienced increased ponding as a result of the additional building at Woods at Canco and the City's sewer separation project.
- 4) Another big concern is the impact on the green space on the property. Deron said he wants to keep as many trees as possible and indicated a vegetation barrier around his property. However, in the plans we saw there are grading lines which conflict with the vegetation barrier (according to the grading in the plans, it could require clearing all the way to the silt fence, which is well beyond the vegetation barrier). There is also the question of clearing required in order to accommodate solar, which is something Deron indicated he might want to do at a future date.
- 5) Finally, we also wanted confirmation on the use of the accessory dwelling. In the zoning requirements it says that it must be occupied by the lot owner, except for bona fide temporary absences. But at the time that the Bartons eventually sell the property, what will happen with the accessory dwelling? We want to confirm that it could not be used as a rental property, etc. in the future.

Please let us know if you have any questions or need additional information. We will be attending the hearing tonight but wanted to be sure these questions were in the record.

Thanks a lot,

Danielle & Kaia Vayenas  
 87 Torrey Street

**RECEIVED**

JUN - 5 2014

Dept. of Building Inspections  
 City of Portland Maine

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**Ann Machado - 83 Wellwood Road**

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**From:** William Mann <billihelp@gmail.com>  
**To:** Cheryl Leeman <cal4161@yahoo.com>, <cl@portlandmaine.gov>  
**Date:** 6/2/2014 11:09 AM  
**Subject:** 83 Wellwood Road  
**CC:** Ann Machado <AMACHADO@portlandmaine.gov>, Deron Barton <dbarton@bmcfirst...>

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Via e-mail to [cal4161@yahoo.com](mailto:cal4161@yahoo.com) [cl@portlandmaine.gov](mailto:cl@portlandmaine.gov)

June 2, 2014

Cheryl,

FYI - I just wanted to follow up on my last message to you. Thank you for sending the clarification message on the e-mail you sent to the neighbors.

As I mentioned - in follow-up to the conversation I had with Danielle Vayenas this past Friday, Deron Barton met with her, the Roberges, John Darling and several other neighbors whom Danielle Vayenas had invited to meet at 83 Wellwood Road on Saturday the 31st of May at 10:00 a.m. Deron indicated that the meeting went well and that he addressed all of the questions that were raised.

As I understand it from speaking with Deron, some of the neighbors were concerned about the trail easement being impacted. He indicated that it would not be and that he and his wife had worked diligently to be good neighbors and create a win - win for all. The bottom-line is: he and Liz Brown have and continue to do all they can to address both the neighbor's and City's questions in a positive and respectful manner while their home construction permitting is finalized. With regard to the neighbors - he thinks he has satisfied most of the concerns. However, some of them other will always wish the lot remain vacant and that is just not reasonable as Mr. Barton / Ms. Brown have property rights too.

I also received a call from a Jackie Cohen who lives in the neighborhood and we had a nice conversation and I think I allayed most of her concerns and told her about the meeting between Mr. Barton and the neighbors. She indicated if the Vayenas' are happy she is fine.

As I have explained to Ann Machado, who I am copying on this e-mail the Barton's while not initially aware of the need to get Zoning Board of Appeals approval, however, they and I and others on their behalf are doing all that we can to insure a smooth and as rapidly as possible.

Again, thank you for your help on this issue and please let me know if you have any questions.

Regards,

Bill



Planning & Urban Development Department

*Jeff Levine, AICP, Director*

*Marge Schmuckal, Zoning Administrator*

May 28, 2014

Silver Beach, LLC  
Elizabeth Brown  
c/o Barton Mortgage  
130 Middle Street  
Portland, ME 04101

Dear Mr. Barton & Ms. Brown,

Your Conditional Use Appeal has been scheduled to be heard before the Zoning Board of Appeals on **Thursday, June 5, 2014 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 packet with you to the meeting to answer any questions the Board may have.

I have included an agenda with your appeal 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, the legal ad, and the notices for the appeal. The check should be written as follows:

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ann B. Machado".

Ann B. Machado  
Zoning Specialist

Cc: File



**CITY OF PORTLAND**  
**DEPARTMENT OF PLANNING & URBAN DEVELOPMENT**  
389 Congress Street  
Portland, Maine 04101

**RECEIPT OF FEES**

<b>Application No:</b> 0000-1922	<b>Applicant:</b> SILVER BEACH LLC & ELIZABE
<b>Project Name:</b> 0 WELLWOOD RD	<b>Location:</b> WELLWOOD RD
<b>CBL:</b> 149 G038001	<b>Application Type:</b> Conditional Use
<b>Invoice Date:</b> 05/28/2014	

<b>Previous Balance</b>	-	<b>Payment Received</b>	+	<b>Current Fees</b>	-	<b>Current Payment</b>	=	<b>Total Due</b>		<b>Payment Due Date</b>
\$100.00		\$100.00		\$202.37		\$202.37		\$0.00		On Receipt

<b>Previous Balance</b>	<b>\$100.00</b>
<b>Payment Received 5/19/2014 - Thank you</b>	- <b>\$100.00</b>

Fee Description	Qty	Fee/Deposit Charge
Processing Fee	1	\$50.00
Notices - ZBA	60	\$45.00
Legal Advertisements - ZBA	1	\$107.37
		\$202.37
<b>Total Current Fees:</b>	<b>+</b>	<b>\$202.37</b>
<b>Total Current Payments:</b>	<b>-</b>	<b>\$202.37</b>
<b>Amount Due Now:</b>		<b>\$0.00</b>

**CBL** 149 G038001  
**Bill to:** SILVER BEACH LLC & ELIZABETH D BROWN  
17 WELLSTONE DR  
PORTLAND, ME 04103

**Application No:** 0000-1922  
**Invoice Date:** 05/28/2014  
**Invoice No:** 45245  
**Total Amt Due:** \$0.00  
**Payment Amount:** \$202.37

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.  
Check the status of your permit or schedule an inspection on-line at <http://www.portlandmaine.gov/planning/permitstatus.asp>

**Ann Machado - RE: Revised Legal Ad for the ZBA**

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**From:** Joan Jensen <jjensen@mainetoday.com>  
**To:** Ann Machado <AMACHADO@portlandmaine.gov>  
**Date:** 5/28/2014 9:39 AM  
**Subject:** RE: Revised Legal Ad for the ZBA  
**Attachments:** zoning board of appeals revised.pdf

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Hi Ann,

All set to publish your revised ad on Friday, May 30.  
The cost is \$107.37 includes \$2.00 online charge. I included a revised proof.  
If you have any questions, please feel free to contact me.

Thank you,  
Joan

Joan Jensen  
*Legal Advertising*  
Portland Press Herald/Maine Sunday Telegram  
295 Gannett Drive  
South Portland, ME 04106  
Tel: (207) 791-6157  
Fax: (207) 791-6910  
jjensen@mainetoday.com

**Portland Press Herald**  
**Maine Sunday Telegram**  
www.pressherald.com

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**From:** Ann Machado [mailto:AMACHADO@portlandmaine.gov]  
**Sent:** Wednesday, May 28, 2014 9:26 AM  
**To:** classified  
**Subject:** Revised Legal Ad for the ZBA

Joan -

Thank you for revising the legal ad. Attached is the new Zoning Board of Appeals legal ad for Friday, May 30, 2014.

Ann

**IMPORTANT NOTICE FROM CITY OF PORTLAND  
ZONING BOARD OF APPEALS**

**IN THE VICINITY OF 83 WELLWOOD RD**

The Zoning Board of Appeals will hold a public hearing on Thursday, June 5, 2014 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 appeal.

**Conditional Use Appeal:**

83 Wellwood Road, Silver Beach, LLC & Elizabeth D. Brown, owners, Tax Map 149, Block G, Lot 038 & Tax Map 160, Block F, Lot 040, R-3 Residential Zone: The applicants are seeking a Conditional Use Appeal under section 14-88(a)(2) to build an accessory dwelling unit as part of the new single family home that they are building. Representing the appeal is the owners' agent, William J. Mann.

For more information you may contact Marge Schmuckal, Zoning Administrator, at 207-874-8695.

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CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
149 B001001	VENTAS WOODS AT CANCO LLC	21001 N TATUM BLVD STE 1630-630 PHOENIX, AZ 85050	257 CANCO RD	124
149 G037001	VAYENAS DANIELLE G & KAIA L VAYENAS JTS	87 TORREY ST PORTLAND, ME 04103	87 TORREY ST	1
149 G038001	SILVER BEACH LLC & ELIZABETH D BROWN	17 WELLSTONE DR PORTLAND, ME 04103	WELLWOOD RD	1
155 A001001	ROBERGE MICAH J & KATHERINE W ROBERGE JTS	76 WELLWOOD RD PORTLAND, ME 04103	76 WELLWOOD RD	1
155 A004001	WILSON POLLY & RALPH A GOODWIN JTS	72 WELLWOOD RD PORTLAND, ME 04103	72 WELLWOOD RD	1
155 A005001	WILSON POLLY & RALPH A GOODWIN JTS	72 WELLWOOD RD PORTLAND, ME 04103	66 WELLWOOD RD	1
155 A006001	ESTABROOK EMILY	64 WELLWOOD RD PORTLAND, ME 04103	64 WELLWOOD RD	1
155 A007001	SIROIS PENELOPE D	171 SMUTTY LN SACO, ME 04072	60 WELLWOOD RD	1
155 A008001	MORAN JOHN A & DEBRA A MORAN JTS	52 WELLWOOD RD PORTLAND, ME 04103	54 WELLWOOD RD	1
155 A009001	MORAN JOHN A & DEBRA A MORAN JTS	52 WELLWOOD RD PORTLAND, ME 04103	52 WELLWOOD RD	1
155 A011001	VALENTE ERNEST S JR & DOROTHY A JTS	44 WELLWOOD RD PORTLAND, ME 04103	44 WELLWOOD RD	1
155 A016001	BENNETT JEFFREY A & KIMBERLY E BENNETT JTS	45 TORREY ST PORTLAND, ME 04103	45 TORREY ST	1
155 A017001	ZELONISH SHARON D & EDWARD M ZELONISH JR JTS	49 TORREY ST PORTLAND, ME 04103	49 TORREY ST	1
155 A018001	GRIFFIN MARY WID VN VET	55 TORREY ST PORTLAND, ME 04103	55 TORREY ST	1
155 A020001	READ GRETCHEN & RONALD E	65 TORREY ST PORTLAND, ME 04103	61 TORREY ST	1
155 A021001	READ GRETCHEN & RONALD E	65 TORREY ST PORTLAND, ME 04103	65 TORREY ST	1
155 A022001	VACHON JAMES W & NANCY L VACHON JTS	69 TORREY ST PORTLAND, ME 04103	69 TORREY ST	1
155 A023001	STOCKS CYNTHIA M	75 TORREY ST PORTLAND, ME 04103	75 TORREY ST	1
155 A024001	LARSON ERIN L	77 TORREY ST PORTLAND, ME 04103	77 TORREY ST	1
155 A029001	MACHADO ANN B	90 TORREY ST PORTLAND, ME 04103	90 TORREY ST	1
155 A030001	CONROY ANNE E	84 TORREY ST PORTLAND, ME 04103	84 TORREY ST	1
155 D001001	BERTI DOROTHY L	70 TORREY ST PORTLAND, ME 04103	70 TORREY ST	1
155 D003001	MILLIKEN KRISTEN W	66 TORREY ST PORTLAND, ME 04103	66 TORREY ST	1
155 D004001	EARLS DANA R	62 TORREY ST PORTLAND, ME 04103	62 TORREY ST	1
155 D005001	ATWOOD STEPHEN B & FIONA W HOPPER JTS	58 TORREY ST PORTLAND, ME 04103	58 TORREY ST	1
155 D006001	BREAU SUSAN F	56 TORREY ST PORTLAND, ME 04103	56 TORREY ST	1
155 D015001	FOWLER BRUCE A & SUSAN J WEBSTER JTS	59 BAY ST PORTLAND, ME 04103	59 BAY ST	1
155 D029001	GULLIKSON DIANE M	35 BAY ST PORTLAND, ME 04103	BAY ST	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
160 D042001	WILSON MARIE B	118 MURRAY ST PORTLAND, ME 04103	DUDLEY ST	1
160 E001001	PORTLAND ASSISTED LIVING LLC	PO BOX 847 CARLSBAD, CA 92018	217 CANCO RD	82
160 E014001	GOFF PRISCILLA	2400 S OCEAN DR APT 3514 FT PIERCE, FL 34949	DUDLEY ST	1
160 E021001	PAQUETTE ARON J & ANNE C PAQUETTE JTS	38 KINEO ST PORTLAND, ME 04103	38 KINEO ST	1
160 E028001	DECAMILLIS JAMES M JR	32 KINEO ST PORTLAND, ME 04103	32 KINEO ST	1
160 E029001	LOTFEY MICHAEL A	28 KINEO ST PORTLAND, ME 04103	28 KINEO ST	1
160 E031001	CARTER BARBARA L	9 FRYE ST PORTLAND, ME 04103	9 FRYE ST	1
160 E032001	CARTER BARBARA L	9 FRYE ST PORTLAND, ME 04103	FRYE ST	1
160 F029001	DUPLISSIS LAURA L & ROSS C DUPLISSIS JTS	10 FRYE ST PORTLAND, ME 04103	10 FRYE ST	1
160 F032001	DEMPSEY IRENE L	10 KINEO ST PORTLAND, ME 04103	10 KINEO ST	1
160 F035001	DEMPSEY IRENE L	10 KINEO ST PORTLAND, ME 04103	75 WELLWOOD RD	1
160 F036001	DARLING JOHN R & LISA C JTS	79 WELLWOOD RD PORTLAND, ME 04103	79 WELLWOOD RD	1
160 F037001	DARLING JOHN R & LISA C JTS	79 WELLWOOD RD PORTLAND, ME 04103	81 WELLWOOD RD	1
160 G003001	THERIAULT ANNE C & ERIC J THERIAULT JTS	39 KINEO ST PORTLAND, ME 04103	39 KINEO ST	1
160 G012001	37 K LLC	21 THUNDER RD SACO, ME 04072	37 KINEO ST	1
160 G013001	SLOAN HEATHER J	29 KINEO ST PORTLAND, ME 04103	29 KINEO ST	1
160 G014001	PARDI JENNIFER E	25 KINEO ST PORTLAND, ME 04103	25 KINEO ST	1
160 G015001	JOHNSON PHYLLIS E	19 KINEO ST PORTLAND, ME 04103	19 KINEO ST	1
160 G016001	PERRY CHARLES A & NANCY D JTS	15 KINEO ST PORTLAND, ME 04103	15 KINEO ST	1
160 G017001	ZAVASNIK VICTORIA C	9 KINEO ST PORTLAND, ME 04103	9 KINEO ST	1
160 G018001	TRUEDSSON MARCH A	67 WELLWOOD RD PORTLAND, ME 04103	67 WELLWOOD RD	1
160 G019001	HENNESSEY SHEILA & DENNIS HENNESSEY JTS	65 WELLWOOD RD PORTLAND, ME 04101	65 WELLWOOD RD	1
160 G020001	LEVINE DAVID S & ELIZABETH M ANDERSEN JTS	61 WELLWOOD RD PORTLAND, ME 04103	61 WELLWOOD RD	1
160 G021001	FIORE BARBARA	55 WELLWOOD RD PORTLAND, ME 04103	55 WELLWOOD RD	1
160 G022001	FREEMAN COURTNEY M & ROSS A ENDRES JTS	12 LORAIN ST PORTLAND, ME 04103	12 LORAIN ST	1
160 G024001	MURPHY MARY N	18 LORAIN ST PORTLAND, ME 04103	18 LORAIN ST	1
160 G025001	LITTLE JONATHAN F	22 LORAIN ST PORTLAND, ME 04103	22 LORAIN ST	1
160 G026001	DIAMOND SUSAN K	26 LORAIN ST PORTLAND, ME 04103	26 LORAIN ST	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
160 G027001	RIGGOTT CHRISTOPHER R & JULIA C USTACH JTS	32 LORAIN ST PORTLAND, ME 04103	32 LORAIN ST	1
160 G028001	HEINRICH JULIE-ANN	36 LORAIN ST PORTLAND, ME 04103	36 LORAIN ST	1
160 G030001	ISBISTER FREDERICK E	188 RAINBOW LN SIDNEY, ME 04330	40 LORAIN ST	1
160 H015001	CONLEY KEVIN E & REBEKKA S CONLEY JTS	27 LORAIN ST PORTLAND, ME 04103	27 LORAIN ST	1
160 H016001	WHEATON JEAN A	23 LORAIN ST PORTLAND, ME 04103	23 LORAIN ST	1
160 H017001	COVENS-HEARY HILDEGARD	17 LORAIN ST PORTLAND, ME 04103	17 LORAIN ST	1
160 H019001	RUDD KELLEY & RYAN RUMSEY JTS	11 LORAIN ST PORTLAND, ME 04103	11 LORAIN ST	1
160 H020001	LOMBARD JANE E	100 WHITES POINT RD STANDISH, ME 04084	3 LORAIN ST	1
160 H021001	SCIPIONE TOBIN & SOREN DENIORD JTS	43 WELLWOOD RD PORTLAND, ME 04103	43 WELLWOOD RD	1

