



Michael A. Russell, MS, Director
Permitting and Inspections Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND ZONING BOARD OF APPEALS
Conditional Use Appeal Application

Applicant Information:

Sarah Rubin

NAME

N/A

BUSINESS NAME

N/A

BUSINESS ADDRESS

N/A

BUSINESS TELEPHONE & E-MAIL

Owner

APPLICANT'S RIGHT/TITLE/INTEREST

R3

CURRENT ZONING DESIGNATION

EXISTING USE OF THE PROPERTY:

Single Home Dwelling

TYPE OF CONDITIONAL USE PROPOSED:

One Additional Dwelling Unit per section 14-88 (a)(2)

Subject Property Information:

28 Harvey St. Portland, Maine 04102

PROPERTY ADDRESS

224A COO 3001

CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (If Different)

ADDRESS (If Different)

207-651-2424 • sarah.rubin@gorhamschools.org

PHONE # AND E-MAIL

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

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. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses of other allowable uses in the 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.

SIGNATURE OF APPLICANT

March 14, 2018

DATE

Zoning Board of Appeals
City of Portland
389 Congress St.
Portland, ME 04101-3509

March 14, 2018

To the Zoning Board of Appeals:

Please consider the attached application for a conditional use permit for the addition of a single dwelling at my property 28 Harvey Street (Zoned R3, CBL 224A C00 3001).

The current dwelling at 28 Harvey Street is my primary residence. I live there with my husband and two small children. The permitting package for an addition to the existing dwelling that would include additional living space and a garage is currently holding at the City permitting office.

We would also like to include in the addition a single dwelling above the garage that would be suitable for my mother to live in. We are applying for a conditional use permit for this dwelling. Our plan is to go before the board before we complete submission of the building permit package for the complete addition in order to be able to address any changes necessary before the permit application is finalized. We would only build the additional unit as part of the total expansion of the dwelling thus, the conditional use permit is contingent upon the addition building permit being approved.

The complete addition would add significant square footage to the existing dwelling and the addition of the new single dwelling would fit all of the requirements pursuant to section 14-88 of the city's building code.

Since we will have to apply for building permits and then start the build, we would also like to request a longer approval period for this Conditional Use Appeal. I know the normal expiration of ZBA appeals is six months, and I believe that in that case it would run out before we finished the proposed project. Christina Stacey at the Zoning Office suggested we request an approval period of 2 years to ensure we are able to get the permits and build without the appeal expiring.

Please contact me at 207-651-2424 or sarah.rubin@gorhamschools.org with any questions or concerns. I look forward to hearing from the board.

Sincerely,
Sarah Rubin



Owner/Occupant
28 Harvey Street Property

Conditional Use Criteria
28 Harvey Street Conditional Use Appeal Application

From the Conditional Use Appeal Application:

1. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and

Lucas St. where the driveway will be located is a cut through street between two busy streets and no noticeable extra traffic would be added and the volume of traffic would be comparable to other dwellings on the street. The only extra pavement would be the amount for one off-street outdoor parking space (the other space is in the garage for a total of 5 spaces on the property).

2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and

The proposed unit will generate regular household waste for a 1 bedroom apartment and there will be an area for waste bins near the entry to the dwelling.

3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses of other allowable uses in the zone.

If approved, the dwelling would exist above a garage that will be built in the same style of the current residence. The unit will not be noticeable as anything but a garage with an enclosed space above it.

From the R-3 Conditional Use Standard Sec 14-88 (a)2.

Alteration or construction of a detached single-family dwelling to accommodate one (1) additional dwelling unit for the benefit of homeowners or tenants, provided that:

a. 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;

- **The gross floor area of the existing principal building is: 1,443 SF.**
- **The gross floor area of the proposed principal building (including existing floor area and floor area of addition) is: 3,275 SF.**
- **The floor area of the proposed accessory unit shall be a minimum of 400 SF and a maximum of 983 SF (30% of 3,275).**
- **The floor area of the proposed accessory unit is: 477 SF (14.6% of 3,275).**

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

There are no open outside stairways or fire escapes above ground floor in the proposed plans.

c. 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;

All building additions and exterior alterations are compatible with the architectural style of the single family dwelling. See Documents: A200-A201 Proposed Elevations for design proposal.

d. A minimum lot size of six thousand five hundred (6,500) square feet of land area shall be required;
The current lot at 28 Harvey Street is 12,050 sq ft.

g. 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;

The principal/current dwelling will not be reduced in size at all.

h. Parking shall be provided as required by division 20 of this article;

Two off-street parking spaces will be created for a total of 5 total parking spots for the two dwellings.

i. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:

i. Any additions or exterior alterations City of Portland Land Use Code of Ordinances Chapter 14 Sec. 14-86 Rev. 1-18-2012 14-82 such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building;

All building additions and exterior alterations are compatible with the architectural style of the single family dwelling. See Documents: A200-A201 Proposed Elevations for design proposal.

ii. 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.

The additional portion of the driveway needed to support a parking space for an extra occupant will be created in shortening and widening the current driveway by one parking space. The additional space will be in the garage. The driveway is hidden on the adjacent property side by a natural shrub barrier.

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

The property owner, Sarah Rubin, will continue to occupy the principal unit.



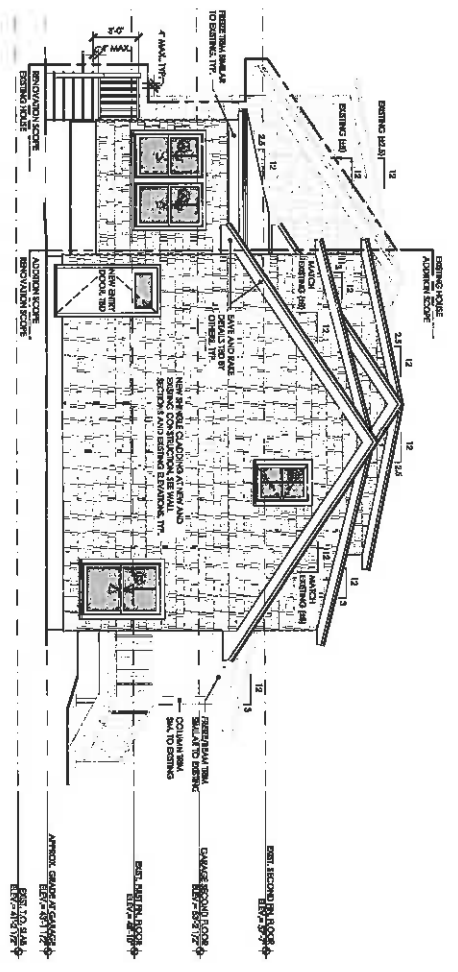
201 Number
Maine Licensed Architect

Harvey Street Addition

28 Harvey Street - Portland, Maine

Scale: 1/8" = 1'-0"
Date: November 09, 2018
Proposed Elevations

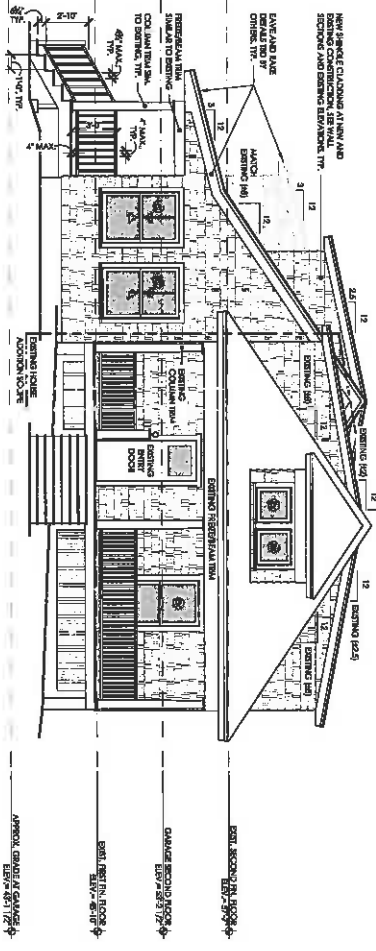
A201



2 PROPOSED SIDE ELEVATION

Scale: 1/8" = 1'-0"

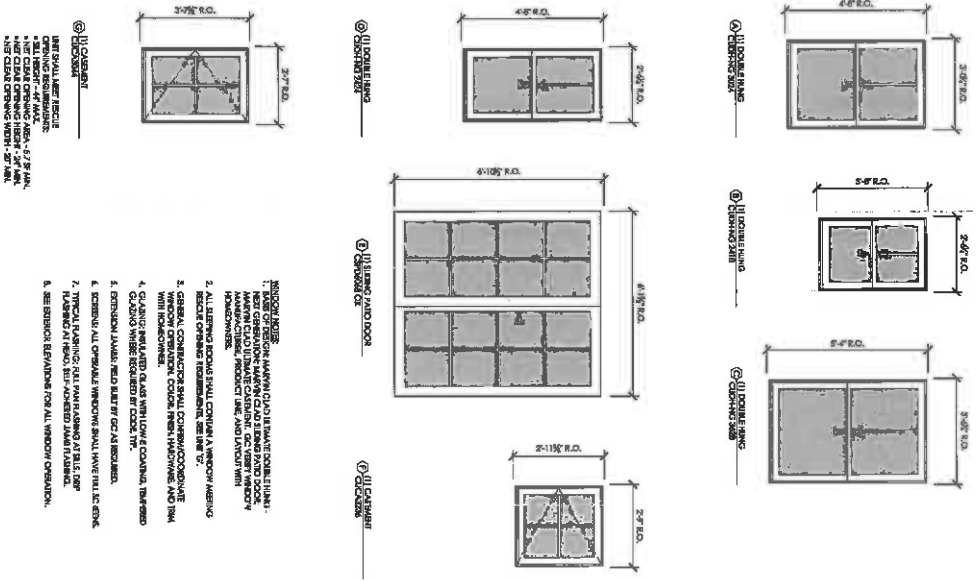
- NOTES:
- 1. EXISTING WINDOWS SHALL BE REFINISHED, REPAIRED, AND LOCATIONS CHANGED.
 - 2. GARAGE AND PORCH TO BE REMOVED.
 - 3. EXISTING BEAM WINDOW TO REMAIN.
 - 4. INDICATES NEW WINDOW PER SCHEDULE.



1 PROPOSED HARVEY STREET ELEVATION

Scale: 1/8" = 1'-0"

ISSUED FOR PERMIT



- NOTES:
- 1. WINDOW SHALL BE REFINISHED, REPAIRED, AND LOCATIONS CHANGED.
 - 2. GARAGE AND PORCH TO BE REMOVED.
 - 3. EXISTING BEAM WINDOW TO REMAIN.
 - 4. INDICATES NEW WINDOW PER SCHEDULE.

3 PROPOSED WINDOW SCHEDULE

Scale: 1/8" = 1'-0"

- WINDOW NOTES:
1. WINDOW SHALL BE REFINISHED, REPAIRED, AND LOCATIONS CHANGED.
 2. GARAGE AND PORCH TO BE REMOVED.
 3. EXISTING BEAM WINDOW TO REMAIN.
 4. INDICATES NEW WINDOW PER SCHEDULE.



ISSUED FOR PERMIT



James E. Smith
Professional Engineer

Harvey Street Addition
28 Harvey Street - Portland, Maine

Existing
Elevations

EX100

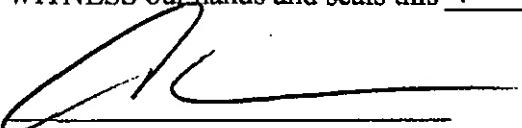
DEED OF SALE BY PERSONAL REPRESENTATIVE

(MAINE STATUTORY SHORT FORM)

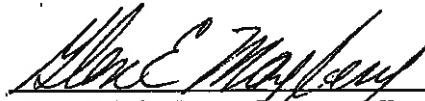
KNOW ALL PERSONS BY THESE PRESENTS, Glen E. Mayberry, of 93 Carter Street, Portland, ME 04103 duly appointed and acting Personal Representative of the Estate of Gerald E. Mayberry, deceased, whose will was duly admitted to Probate Court for Cumberland County, Maine, under Docket Number 2013- 1635, and not having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale, such notice not being required under the terms of the decedent's will, by the power conferred by the Probate Code, and every other power, for consideration paid GRANTS to Sarah M. Rubin, of 19 Noyes Street, Portland, ME 04103, the following described real property, together with any improvements thereon, located in Portland, County of Cumberland and State of Maine, and more particularly described in EXHIBIT A attached hereto and made a part hereof.

MAINE REAL ESTATE TAX PAID

WITNESS our hands and seals this 18 day of June, 2014.



Witness

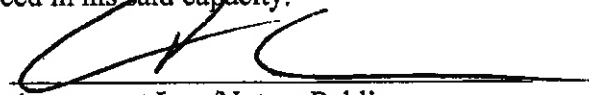


Glen E. Mayberry Personal Representative of
The Estate of Gerald E. Mayberry

STATE OF MAINE
COUNTY OF CUMBERLAND.

June 18, 2014

Then personally appeared the above-named **Glen E. Mayberry**, duly appointed and acting **Personal Representative of the Estate of Gerald E. Mayberry**, and acknowledged the foregoing instrument to be his free act and deed in his said capacity.



Attorney at Law/Notary Public

My commission expires:

Christopher J. McLain
Notary Public, Maine
My Commission Expires
November 10, 2019

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated at Brighton Avenue Gardens, so-called, in Portland, being lots numbered fifty-eight (58) and fifty-nine (59) on Lucas Street, so-called, containing six thousand (6,000) square feet, more or less, as shown on plan of E. N. Sheffield, Civil Engineer, dated April 1921, and recorded in the Cumberland County Registry of Deeds, Book 14, Page 56.

Also another certain lot or parcel of land situated on said Lucas Street in Portland, being lots numbered sixty (60) and sixty-one (61) according to a plan of lots at Brighton Avenue Gardens, said plan having been made by E. N. Sheffield, Civil Engineer, dated April 1921, and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 56.

The second lot is subject to the following restrictions: No house nor other building to be built or placed on said lots to cost less than Fifteen Hundred Dollars (\$1,500.00), except that after such house has been built such out buildings as may be suitable and appurtenant may then be erected.

Meaning and Intending to describe the same premises as Warranty Deed from Edith E. Jenkins, Arthur H. Jenkins and Mildred G. McGann to Gerald E. Mayberry and Jeanne M. Mayberry dated June 8, 1953 and recorded in Book 2133, Page 242. Further conveyed by Quitclaim Deed from Jeanne M. Mayberry to Gerald E. Mayberry dated August 25, 2010 and recorded in Book 28068, Page 70.

Received
Recorded Register of Deeds
Jun 19, 2014 11:10:40A
Cumberland County
Pamela E. Lovley

CLERK OF SUPERIOR COURT
CUMBERLAND COUNTY
P.O. BOX 18738
PORTLAND, ME 04113