




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

Ann Machado, Zoning Administrator

TO: Zoning Board of Appeal Chair and Members
FROM: Ann Machado, Zoning Administrator 
SUBJECT: 31 Warren Avenue – 292 D010 – B-4 Commercial Corridor Zone
DATE: December 23, 2016

Based on the information from the Portland Maine Assessor's website, the building was built around 1930. The only building permit on file in the Permitting and Inspections Department is a building permit from 1938 which lists the "proposed use" of the building as a 2 family (Exhibit A).

When there are not more recent building permits on file, our office looks at the use of the building on the assessor's property card from the early 1950s. The current land use ordinance went into effect on June 5, 1957. A use that existed at that time as shown on the assessor's card from the early 1950s would be considered the legal use as of 1957. The second page of the 1951 property card for 31 Warren Avenue, CBL 292-D-010 lists the use as a two family (Exhibit B). Since there is no building permit on file after 1951, the legal use of the property is a two family.

The permitted uses in the B-4 Zone are listed in Section 14-229.10 (Exhibit C). Dwelling units are not listed as a permitted use. Section 14-229.12 states "uses not expressly enumerated in section 14-229.11 as permitted uses are prohibited" (Exhibit D). Since residential uses are not listed as a permitted use, the current use as a two family is a legal nonconforming use in the zone. Adding a third dwelling unit would increase the nonconforming use of the property. Section 14-382 is titled "Increase in nonconforming use of structures or alterations to nonconforming structures limited" (Exhibit E) Subsection (c) addresses the limitations on alterations which increase the degree of the nonconforming use. The applicant is seeking a variance from this section.



Class of Building or Type of Structure _____
Portland, Maine, March 20, 1938

To the INSPECTOR OF BUILDINGS, PORTLAND, ME.

The undersigned hereby applies for a permit to erect after-install the following building structure equipment in accordance with the Laws of the State of Maine, the Building Code of the City of Portland, plans and specifications, if any, submitted herewith and the following specifications:

Location El Harran Avenue Ward 9 Within Fire Limits? NO Dist. No. _____
Owner's name and address Mrs. E. A. McLaughlin, El Harran Ave. Telephone _____
Contractor's name and address Simon Barry, 1514 Forest Ave. Telephone 2-2152
Architect's name and address _____ No. families 2
Proposed use of building dwelling house
Other buildings on same lot _____ No. of sheets 1
Plans filed as part of this application? yes Fee \$ 50
Estimated cost \$ 75

Description of Present Building to be Altered

Material wood No. stories 2 1/2 Heat _____ Style of roof _____ Roofing _____
Last use dwelling house No. families 2

General Description of New Work

To set 6" partition over about 2" to enlarge existing toilet room to provide new bath room, existing window for ventilation of same at least thirty square feet in area
vent shaft fifty six sq ft thru roof

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor.

Details of New Work

Size, front _____ depth _____ No. stories _____ Height average grade to top of plate _____
To be erected on solid or filled land? _____ earth or rock? _____
Material of foundation _____ Thickness, top _____ bottom _____
Material of underpinning _____ Height _____ Thickness _____
Kind of Roof _____ Rise per foot _____ Roof covering _____
No. of chimneys _____ Material of chimneys _____ of lining _____
Kind of heat _____ Type of fuel _____ Is gas fitting involved? _____
Corner posts _____ Sills _____ Girt or ledger board? _____ Size _____
Material columns under girders _____ Size _____ Max. on centers _____
Studs (outside walls and carrying partitions) 2x4-16" O. C. Girders 6x8 or larger. Bridging in every floor and flat roof span over 8 feet. Sills and corner posts all one piece in cross section.
Joists and rafters: 1st floor _____, 2nd _____, 3rd _____, roof _____
On centers: 1st floor _____, 2nd _____, 3rd _____, roof _____
Maximum span: 1st floor _____, 2nd _____, 3rd _____, roof _____
If one story building with masonry walls, thickness of walls? _____ height? _____

If a Garage

No. cars now accommodated on same lot _____ to be accommodated _____
Total number commercial cars to be accommodated _____
Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? _____

Miscellaneous

Will above work require removal or disturbing of any shade tree on a public street? NO
Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto are observed? YES
Signature of owner Simon Barry

Exhibit B

REAL ESTATE ASSESSMENT RECORD - CITY OF PORTLAND, MAINE

CURR. DESC.	LAND NOS.	STREET	BLDG. NO.	CARD NO.	DEVELOPMENT NO.	AREA	DIST.	ZONE	CHART	BLOCK	LOT	CURR. DESC.
	31-35	Warren Ave.		OF			13		292	D	10	

TAXPAYER ADDRESS AND DESCRIPTION

McLAUGHLIN EMILY C
31 WARREN AVE.
CITY

LAND & BLDG. WARREN AVE. #31-35
ASSESSORS PLAN 292-D-10 AREA
10725 SQ. FT.

RECORD OF TAXPAYER	YEAR	BOOK	PAGE

PROPERTY FACTORS			
TOPOGRAPHY		IMPROVEMENTS	
LEVEL		WATER	
HIGH		SEWER	✓
LOW		GAS	
ROLLING		ELECTRICITY	
SWAMPY		ALL UTILITIES	✓
STREET		TREND OF DISTRICT	
PAVED	✓	IMPROVING	
SEMI-IMPROVED		STATIC	
DIRT		DECLINING	
SIDEWALK	✓		
TILLABLE	PASTURE	WOODED	WASTE

LAND VALUE COMPUTATIONS AND SUMMARY						
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR 1951	19
76	143AD	4.00	112	450	340	
TOTAL VALUE LAND				340	340	
TOTAL VALUE BUILDINGS				3400		
TOTAL VALUE LAND AND BUILDINGS				3740		

LAND VALUE COMPUTATIONS AND SUMMARY						
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	19	19
TOTAL VALUE LAND						
TOTAL VALUE BUILDINGS						
TOTAL VALUE LAND AND BUILDINGS						

ASSESSMENT RECORD			INCREASE	DECREASE
1950	LAND	100		
1950	BLDGS.	1725		
1950	TOTAL	1825		
1951	LAND	200		
1951	BLDGS.	2050		
1951	TOTAL	2250		
195	LAND	200		
195	BLDGS.			
195	TOTAL			
19	LAND			
19	BLDGS.			
19	TOTAL			
19	LAND			
19	BLDGS.			
19	TOTAL			
10	LAND			
10	BLDGS.			
10	TOTAL			
10	LAND			
10	BLDGS.			
10	TOTAL			

LAND VALUE COMPUTATIONS AND SUMMARY						
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	19	19
TOTAL VALUE LAND						
TOTAL VALUE BUILDINGS						
TOTAL VALUE LAND AND BUILDINGS						
SQ. FT. TO-FROM CH.		BLK.	LOT			
SQ. FT. TO-FROM CH.		BLK.	LOT			

LAND VALUE COMPUTATIONS AND SUMMARY						
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	19	19
TOTAL VALUE LAND						
TOTAL VALUE BUILDINGS						
TOTAL VALUE LAND AND BUILDINGS						
SQ. FT. TO-FROM CH.		BLK.	LOT			
SQ. FT. TO-FROM CH.		BLK.	LOT			

YEAR	ORIG. COST	RENTAL	600
YEAR	SALE PRICE	EXPENSE	
YEAR	U. S. R. S.	NET	

Exhibit C

City of Portland
Code of Ordinances
Sec. 14-227

Land Use
Chapter 14
Rev. 6-21-2010

flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

- (c) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises and not for a period exceeding thirty (30) days.
- (d) Noise: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 15-92, § 16, 6-15-92; Ord. No. 15-04/05, 8-2-04; Ord. No. 240-09/10, 6-21-10)

Sec. 14-228 - Sec. 14-229.9. Reserved.

DIVISION 12.5. B-4 COMMERCIAL CORRIDOR ZONE

Sec. 14-229.10. Purpose.

The purpose of the B-4 commercial corridor zone is:

- (a) To provide appropriate locations in the city for the development and operation of businesses catering primarily to highway-oriented trade along major arterials. (Uses which have market areas which are primarily dependent on the regional highway network or serve a regional or larger market); or
- (b) To provide appropriate locations for large-scale commercial uses and commercial uses that require larger land areas to accommodate their operations.

(Ord. No. 296-88, 5-23-88)

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

- (a) *Business:*
 - 1. General, business and professional offices, as defined in section 14-47;

2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants;
6. Drinking establishments;
7. Billiard parlors;
8. Major and minor gasoline service stations, as defined in section 14-47;
9. Mortuaries or funeral homes;
10. Miscellaneous repair services;
11. Health clubs and gymnasiums;
12. Hotels and motels;
13. New and used car dealerships;
14. Facilities for the maintenance and repair of automobiles, provided all repairs are performed in a fully enclosed structure;
15. Car washes;
16. Lumber and building materials dealers;
17. Communications studios and broadcast receiving facilities;
18. Veterinary hospitals but excluding outdoor kennels;
19. Auto body repair and paint shops provided all repairs are performed in fully enclosed structures;
20. Boat, trailer or recreational vehicle sales and service;

21. Theaters, entertainment and recreation services;
22. Self-storage facility;
23. Registered medical marijuana cultivation facilities.

(b) *Institutional:*

1. Governmental buildings and uses.
2. Colleges, universities and trade schools.
3. Places of assembly.
4. Correctional prerelease facilities for up to twelve (12) persons, plus staff, serving a primary clientele of parolees or persons in correctional prerelease programs, provided that:
 - a. No correctional prerelease facility shall be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;
 - b. If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof; and
 - c. The facility shall provide twenty-four-hour supervision of program participants.

(c) *Other:*

1. Lodging houses;
2. Wholesale warehousing and distribution establishments;
3. Commercial bakeries and dairies;
4. Light manufacturing uses with not more than twenty-five thousand (25,000) square feet or less

Exhibit D

City of Portland
Code of Ordinances
Sec. 14-229.11.1

Land Use
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Rev.1-18-2012

cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

- (b) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12)

Sec. 14-229.12. Prohibited uses.

Uses not expressly enumerated in section 14-229.11 as permitted uses are prohibited.

(Ord. No. 296-88, 5-23-88)

Sec. 14-229.13. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, uses other than utility substations in the B-4 zone shall meet the following minimum requirements:

- (a) Minimum lot size: Ten thousand (10,000) square feet.
- (b) Minimum street frontage: Sixty (60) feet.
- (c) Minimum yard dimensions:

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

Except as provided in subsection (5) below, the following setbacks shall be required:

1. *Front yard:*
 - a. Principal or accessory structures: Twenty (20) feet, except that a front yard need not exceed the average depth of front yards on either side of the lot.
 - b. The front yard of a lot existing as of May 23, 1988, and less than one hundred (100)

Exhibit E

City of Portland
Code of Ordinances
Sec. 14-375

Land Use
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Sec. 14-376. - Sec. 14-380. Reserved.

DIVISION 23. NONCONFORMING USE AND NONCONFORMING BUILDINGS

Sec. 14-381. Continuation.

Any lawful use of buildings, structures, premises or parts thereof, existing on June 5, 1957, and made nonconforming by the provisions of this article or any amendment thereto may be continued although such use does not conform with the provisions of this article or amendment thereto.

(Code 1968, § 602.17.A)

Sec. 14-382. Increase in nonconforming use of structure or alterations to nonconforming structures limited.

(a) A lawful nonconforming non-residential structure may be maintained, repaired, or reconstructed in kind within a one (1) year period or within a two (2) year period for a nonconforming residential structure, but no alterations, modifications or additions shall be made to it, except as provided in this division.

(b) A building whose use is wholly nonconforming shall not be altered so as to increase the cubical content or the degree of nonconformity.

(c) No alterations, modifications or additions shall be made so as to increase the cubical content or the degree of nonconforming use, nor shall a nonconforming use be extended to any other part of such building, unless such part was clearly arranged and designed for such nonconforming use prior to June 5, 1957, or such extension of a nonconforming use is solely for the purpose of bringing the use into compliance with health or safety codes, or to correct a condition that may not technically be in violation but which is determined by the board of appeals to constitute a health or safety problem. In either case, the expansion shall be limited to the minimum necessary to accomplish that purpose.

(d) Alteration, modification or addition may be made to a building which is lawfully nonconforming as to space and bulk or any dimensional requirement where the proposed changes in existing exterior walls and/or roofs would be within the space occupied by the existing shell of the building, and would not create any new nonconformity nor increase any existing nonconformity. This subsection shall not apply to buildings located within shoreland zones and existing on June 15, 1992, which are nonconforming only as to setbacks from wetlands, tributary streams or other water