



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • [www.portlandmaine.gov](http://www.portlandmaine.gov)*

*Penny St. Louis Littell - Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator*

April 29, 2009

Dorothy Valente  
113 Lane Avenue  
Portland, ME 04103

RE: 113 Lane Avenue – 310 D014 – R-3 – garage addition – permit #09-0259

Dear Ms. Valente,

This letter is a follow up to the telephone conversation that we had on April 27, 2009. You applied for a building permit to build an attached twenty-two foot by twenty-four foot garage. At this point I must deny your application because it does not meet the requirements of the R-3 residential zone.

Section 14-90(d)(3)(a) of the ordinance gives eight feet as the minimum side setback for a one story structure. The plot plan that was submitted with the application gives the side setback to the property line from the proposed garage as six feet. This does not meet the minimum eight foot setback requirement.

As I told you on the telephone, if you reduced the proposed garage width to twenty feet then according to the plot plan (the distance would have to be verified), the setback would be eight feet, and this would meet the dimensional requirement. You said that you needed a two car garage. The Technical and Design Standards and Guidelines for the City of Portland give the width of a parking space as nine feet, so a twenty foot wide garage should be able to hold two cars.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. I have enclosed the necessary paper work that is required to file an appeal.

If you choose not to file an appeal or modify your application, you are entitled to get most of your money back if you bring in the original receipt you got when you applied for the permit.

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

Yours truly,

Ann B. Machado  
Zoning Specialist  
(207) 874-8709

Cc. file

## Marge Schmuckal - Re: garage

---

**From:** Tammy Munson  
**To:** Marge Schmuckal; dvalente2@maine.rr.com  
**Date:** 8/28/2014 2:21 PM  
**Subject:** Re: garage

---

Dorothy, this permit is over 5 1/2 years old. We did do a partial review on it. Due to the time lapse, this fee is not refundable. Also, is you paid a Board of Appeals fee, that is not refundable either.

Tammy M. Munson  
Director of Inspections  
City of Portland  
389 Congress Street Rm 315  
Portland, Maine 04101  
Office: (207)874-8703  
Free access to codes on-line: <http://publicecodes.cyberregs.com/icod/index.htm>

>>> Marge Schmuckal 8/28/2014 2:16 PM >>>

Hi Dorothy,

The money from permits usually goes into the general funds that goes toward costs required in that year. Funds are closed out and finalized yearly. Each year is a new budget with funds. Your original permit application was 5 years ago in 2009. I do Zoning. And we have spoken in detail specifically about your permits. I think we have a way forward. But concerning any refund, zoning cannot help you there. Please feel free to speak to the director of our division, Tammy Munson. She can better answer the financial questions you have.

Marge

>>> <dvalente2@maine.rr.com> 8/28/2014 1:31 PM >>>

I neglected to ask you a few questions when we last spoke, in reference to the permit for the garage.

During our meeting awhile back, you quoted an ordinance or whatever you call it, stating that "If a permanent structure was in existence in 1989", then I could build my garage. My house was built in 1985.

I have 2 questions to ask. First, if this ordinance was in existence in 2009 when I originally applied for a permit, why was I denied? I paid \$400 plus for something I never got. All I got was a NO when I mentioned variance.

Secondly, what happened to the money I paid?

I was told by someone in city hall that in order for me to get my money back I have to produce the original receipt (which I am sure I don't have anymore) or a cancelled check. Then I have to pay for the permit again and then I can get my money back. I find this a bit unfair and somewhat confusing. I'm being penalized for something that clearly was not my fault.

Any information you can provide me regarding this situation would be greatly appreciated. Thank you in advance.

Dorothy Valente  
113 Lane Avenue  
Portland, Maine 04103-1250  
207-650-8789

## Marge Schmuckal - Re: garage

---

**From:** Marge Schmuckal  
**To:** dvalente2@maine.rr.com  
**Date:** 8/28/2014 2:16 PM  
**Subject:** Re: garage  
**CC:** Tammy Munson

---

Hi Dorothy,

The money from permits usually goes into the general funds that goes toward costs required in that year. Funds are closed out and finalized yearly. Each year is a new budget with funds. Your original permit application was 5 years ago in 2009. I do Zoning. And we have spoken in detail specifically about your permits. I think we have a way forward. But concerning any refund, zoning cannot help you there. Please feel free to speak to the director of our division, Tammy Munson. She can better answer the financial questions you have.

Marge

>>> <dvalente2@maine.rr.com> 8/28/2014 1:31 PM >>>

I neglected to ask you a few questions when we last spoke, in reference to the permit for the garage.

During our meeting awhile back, you quoted an ordinance or whatever you call it, stating that "If a permanent structure was in existence in 1989", then I could build my garage. My house was built in 1985.

I have 2 questions to ask. First, if this ordinance was in existence in 2009 when I originally applied for a permit, why was I denied? I paid \$400 plus for something I never got. All I got was a NO when I mentioned variance. Secondly, what happened to the money I paid?

I was told by someone in city hall that in order for me to get my money back I have to produce the original receipt (which I am sure I don't have anymore) or a cancelled check. Then I have to pay for the permit again and then I can get my money back. I find this a bit unfair and somewhat confusing. I'm being penalized for something that clearly was not my fault.

Any information you can provide me regarding this situation would be greatly appreciated. Thank you in advance.

Dorothy Valente  
113 Lane Avenue  
Portland, Maine 04103-1250  
207-650-8789

## Marge Schmuckal - Re: Garage

---

**From:** Tammy Munson  
**To:** Marge Schmuckal; dvalente2@maine.rr.com  
**Date:** 9/17/2014 9:24 AM  
**Subject:** Re: Garage

---

Dorothy, I have included Marge on this email to respond to your questions and statements about your interactions with her. The fee can not be applied to a new permit. The original permit fee is too old to refund. It was over four years ago or so and we cannot refund any part of it.

Tammy M. Munson  
Director of Inspections  
City of Portland  
389 Congress Street Rm 315  
Portland, Maine 04101  
Office: (207)874-8703  
Free access to codes on-line: <http://publicecodes.cyberregs.com/icod/index.htm>

>>> <dvalente2@maine.rr.com> 9/16/2014 1:12 PM >>>

Here's the problem I have with my fee not being returned to me or at least credited to my new request to build a garage. First off, I paid money and got nothing in return. I was not even afforded an opportunity to go before any board. I was told over the phone by some male that before I even try the answer is NO!!!! Is this legal?? Can you just tell someone over the phone???

In addition to paying for something I didn't get, I was informed by Marge in zoning that, according to what she read to me from a book that I could build a garage.

My question to you or whoever can answer it for me is, if what she read to me was in existence in 2009 when I originally applied for a permit, then why was I denied the permit??? The passage she read to me said in part that "if a permanent structure was in existence in 1989, etc. My house was built in 1985. Marge then stated that I could do what I requested and that was to build a garage. Why was I denied in 2009???

If you can't answer these questions, then would you be kind enough to pass this along to someone who can.  
Thank You

Dorothy A. Valente  
113 Lane Avenue  
Portland, Maine 04103-1250  
(207)650-8789

## Marge Schmuckal - Re: Permit Denial

---

**From:** Marge Schmuckal  
**To:** dvalente2@maine.rr.com  
**Date:** 9/22/2014 9:23 AM  
**Subject:** Re: Permit Denial

---

Dorothy,

The section of the ordinance that I applied is not automatically given. It was helpful to meet with you and find out more of the details about your particular situation.

Marge

>>> <dvalente2@maine.rr.com> 9/22/2014 6:48 AM >>>

I will ask this question once more with the hope that it will be answered this time.

If the passage that you read to me when we met not too long ago was in existence in 2009 when I originally applied for a permit, then why was the permit denied? Maybe I'm missing something, but it doesn't seem as though the question has been answered.

In case you don't recall what passage I'm referring to, it stated in part that "if a permanent structure was in existence in 1989 (house was built in 1985), then I can build my garage, or as you put it, you can do what you want to do, and I took that as being able to build a garage. I am very curious as to why the original request was denied. Would appreciate any help you can give me in trying to understand this whole situation. Thank You.

## Marge Schmuckal - Re: Garage

---

**From:** Marge Schmuckal  
**To:** dvalente2@maine.rr.com  
**Date:** 10/27/2014 3:22 PM  
**Subject:** Re: Garage

---

Hi Dorothy,

I do keep answering your questions. On 9/22/2014 I explained that the section of the Zoning Ordinance that I applied to your property is not automatically given. That is where it was helpful to meet with you and find out more of the details about your particular situation.

the third paragraph of Section 14-433 states:

"Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building addition may be located within the following side and rear yards, ***provided that the normal applicable yard requirements cannot be met provided***, however, that the less restrictive zoning requirements which meet the requirements contained within 14-139(b) for residential small lot development shall apply:

R-3 zone: Rear yard: Five (5) feet Side yard: Five (5) feet.

Again, it is not an automatic given. It depends upon the lot and the circumstances surrounding that lot. And when we sat down months ago, I felt that I could apply that section of the Ordinance to your situation and property.

Please be aware that the City of Portland's Land Use Ordinance is very complicated with over 900 pages of text.

I hope this helps you,  
 Marge Schmuckal  
 Zoning Administrator

>>> <dvalente2@maine.rr.com> 10/27/2014 2:35 PM >>>

I'm going to ask this question once more with the hope that this time I will receive an answer!!

My request for a permit to build a garage was denied in 2009 because I did not meet the setback requirements. In 2014, the same situation existed, yet, after you read the passage from the book that you read from, you stated that I could do what I wanted to do and that was to build a garage. Maybe I misunderstood what you meant by "Do what you want". My question, once again, is, was what you read to me in existence in 2009 when I originally applied for a permit? If it was in existence, why was the permit denied? I would like to obtain a copy of the information you read to me. Lastly, how do I know that the same thing won't happen again (permit denial) if I decide to build the garage? I'm very confused at this point. Thank you.