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# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

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Philip Saucier-chair  
Sara Moppin  
Matthew Morgan  
Gordan Smith-secretary  
Mark Bower  
William Getz  
Elyse Wilkinson

February 8, 2011

William Jipson  
PO Box 7015  
Scarborough ME 04070

RE: 1918-1920 Forest Avenue  
CBL: 324 A001  
ZONE: B-2

Dear Mr. Jipson:

At the February 3, 2010 meeting, the Zoning Board of Appeals voted 6-0 to grant your practical difficulty appeal to allow approximately 5,608 square feet of land area instead of the required 6,000 square feet in order to be able to change the use of the property to two residential dwelling units. I am enclosing a copy of the Board's decision.

I am also enclosing the Certificate of Variance Approval. **The original must be recorded in the Cumberland County Registry of Deeds within 90 days of February 3, 2010, when it was signed.** Failure to record the Certificate will result in it being voided. Our office must be provided with a copy of the recorded Certificate of Variance showing the recorded book and page.

Now that the practical difficulty appeal has been approved, you need to submit an application to change the use of the property to two residential dwelling units. You have six months from the date of the hearing, February 3, 2011, referenced under section 14-473(e), to obtain the building permit and start construction, 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

### CERTIFICATE OF VARIANCE APPROVAL

I, Philip Saucier, the duly appointed Chair of the Board of Appeals for the City of Portland, Cumberland County and State of Maine, hereby certify that on the third day of February, 2011, the following variance was granted pursuant to the provisions of 30-A M.R.S.A. Section 4353(5) and the City of Portland's Code of Ordinances.

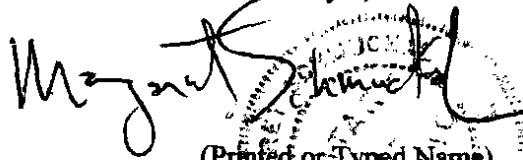
1. **Current Property Owner:** William A. Jipson, Jr.
2. **Property:** 1918-1920 Forest Avenue, Portland, ME CBL: 324-A-001  
Cumberland County Registry of Deeds, Book 27867, Page 183  
Last recorded deed in chain of Title: June 23, 2010
3. **Variance and Conditions of Variance:**  
To grant relief from section 14-14-120(a) & (b) of the closest residential zone, R-5, which rules this location for residential uses, to allow approximately 5,608 square foot of land area instead of the required 6,000 square foot.

IN WITNESS WHEREOF, I have hereto set my hand and seal this 3rd day of February 2011.

  
\_\_\_\_\_, Chair of  
City of Portland Zoning Board, Philip Saucier  
(Printed or Typed Name)

STATE OF MAINE  
Cumberland, ss.

Then personally appeared the above-named Philip Saucier and acknowledged the above certificate to be his free act and deed in his capacity as Chairman of the Portland Board of Appeals, with his signature witnessed on February 3, 2011

  
(Printed or Typed Name)  
\_\_\_\_\_  
Notary Public  
Margaret Schmuckal  
My term expires June 28, 2012

PURSUANT TO 30-A M.R.S.A. SECTION 4353(5), THIS CERTIFICATE MUST BE RECORDED BY THE PROPERTY OWNER IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS WITHIN 90 DAYS FROM FINAL WRITTEN APPROVAL FOR THE VARIANCE TO BE VALID. FURTHERMORE, THIS VARIANCE IS SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 14-474 OF THE CITY OF PORTLAND'S CODE OF ORDINANCES.

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

### "Practical Difficulty" Variance Appeal

#### DECISION

Date of public hearing: February 3, 2011

Name and address of applicant: William Jipson  
PO Box 7015  
Scarborough, ME 04070

Location of property under appeal: 1920 Forest Ave.

Board Present Bill Getz Matt Morgan Mark Bower Phil Sancier Sara Moppin  
For the Record: Elyse Wilkinson

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

William Jipson, owner

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

Plot Plans, sketch  
City Maps of area  
Sketch of floor plan  
pictures of subject property  
Warranty Deed  
Historic permit 2007  
Historic Variance 2007

Findings of Fact and Conclusions of Law:

The applicant owns a building in the B-2 Zone that currently has retail use on the first floor and residential use on the second floor. The applicant seeks to change the use to a two dwelling unit building. The property does not meet the maximum residential density requirement set forth in Section 14-185(a)(5). Said density requirement is established by the closest residential zone, R-5, and is 3,000 square feet of land area per dwelling unit. The applicant's lot is 5,608 square feet and therefore 392 sq. ft. shy of the necessary 6,000 sq. ft.

"Practical Difficulty" Variance standard pursuant to Portland City Code §14-473(c)(3):

1. The application is for a variance from dimensional standards of the zoning ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

*Need to comply with 6000 sq ft. Lot is 5608*

2. Strict application of the provisions of the ordinance would create a practical difficulty, meaning it would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant. "Significant economic injury" means the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

*Property has not been used as a commercial property for many years.*

3. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

*Odd location and the only commercial lot on that corner. It is the only small property in the area.*

4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

*The property is surrounded by residential property. There would immediate improvement to a vacant building*

5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

*Lot size change due to road widening*

6. No other feasible alternative is available to the applicant, except a variance.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

*No indication of an alternative. History of lack of use since 2007*

7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

*No indication*

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. § 435, nor within a shoreland zone or flood hazard zone.

Satisfied ✓ Not Satisfied    

Reason and supporting facts:

*Per Zoning admin.*

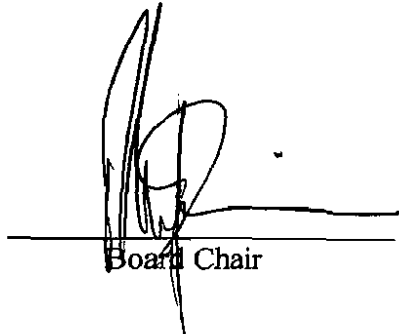
**Conclusion:** (check one)

6-0 Option 1: The Board finds that the standards described above (1 through 8) have been satisfied and therefore GRANTS the application. *Wilson / Getz*

\_\_\_ Option 2: The Board finds that while the standards described above (1 through 8) have been satisfied, 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 the standards described above (1 through 8) have NOT all been satisfied and therefore DENIES the application.

Dated: *2/3/2011*

  
\_\_\_\_\_  
Board Chair

# 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:** February 4, 2011

**RE:** Action taken by the Zoning Board of Appeals on February 3, 2011.

**Members Present:** Phil Saucier (chair), Elyse Wilkinson, Mark Bower, Sara Moppin, Matthew Morgan and William Getz (acting secretary)

**Members Absent:** Gordon Smith

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

##### **A. Practical Difficulty Variance Appeal:**

1918-1920 Forest Avenue, William Jipson, owner, Tax Map 324, Block A, Lot 001, B-2 Community Business Zone: The applicant is seeking a variance from the residential density requirements of the B-2 Zone. The applicant is requesting a change of use from one retail space and one dwelling unit to two dwelling units. The maximum residential density requirement [section 14-185(a)(5)] depends on the density requirement for the closest residential zone which is R-5. Section 14-120(1)(b) requires 3,000 square feet of land area per dwelling unit. The applicant is seeking relief from section 14-120(1)(b) to allow approximately 5,608 square feet of land area instead of the required 6,000 square feet. Representing the appeal is the owner. **The Board voted 6-0 to grant the practical difficulty appeal to allow approximately 5,608 square foot of land area instead of the required 6,000 square foot in order to be able to change the use to two residential dwelling units.**

#### **Enclosure:**

Decision for Agenda from February 3, 2011

Original Zoning Board Decision

One dvd

CC: Joseph Gray, City Manager

Penny St. Louis, Director, Planning & Urban Development

Alex Jaegerman, Planning Division

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members present: Philip Sanchez - William Getz - Mark Bower -  
Matthew Morgan - Sarah Moppin - Elyse Wilkinson  
CITY OF PORTLAND, MAINE  
ZONING BOARD OF APPEALS  
members Absent: ~~Elyse Wilkinson~~ - Gordon Smith  
Acty Sec. began

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, February 3, 2011 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:

Granted  
b-0

1. New Business:

A. Practical Difficulty Variance Appeal:

1918-1920 Forest Avenue, William Jipson, owner, Tax Map 324, Block A, Lot 001, B-2  
Community Business Zone: The applicant is seeking a variance from the residential density requirements of the B-2 Zone. The applicant is requesting a change of use from one retail space and one dwelling unit to two dwelling units. The maximum residential density requirement [section 14-185(a)(5)] depends on the density requirement for the closest residential zone which is R-5. Section 14-120(1)(b) requires 3,000 square feet of land area per dwelling unit. The applicant is seeking relief from section 14-120(1)(b) to allow approximately 5,608 square feet of land area instead of the required 6,000 square feet. Representing the appeal is the owner.

2. Adjournment:

7:10 Am



Planning and Development Department  
Zoning Board of Appeals  
Practical Difficulty Variance Application

Applicant Information:

Name William Simpson

Business Name S/A

Address P.O. Box 7015

Address Scarborough Me 04070

Telephone 207-229-3423

Fax

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

owner

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

Current Zoning Designation: B-2

Existing Use of Property:

Vacant

1st Floor Retail

2nd Floor residential

Subject Property Information:

Property Address 1920 Forest Ave

Assessor's Reference (Chart-Block-Lot) 324-A 001

Property Owner (if different):

Name

Address

Telephone

Fax

Practical Difficulty Variance from Section 14 - 185a 5

RECEIVED

JAN 18 2011

Dept. of Building Inspections  
City of Portland Maine

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

The undersigned hereby makes application for a Practical Difficulty Variance as above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

[Signature]  
Signature of Applicant

1-18-11  
Date

Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the Board of Appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

1. The need for the variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood:

Because of the widening of Forest Ave and Riverston St. the lot was reduced in size from its original 6000 sq. ft.

2. The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of the abutting properties:

There will be no detrimental effect on surrounding properties. If anything, the improvements planned will have a positive impact.

3. The Practical Difficulty is not the result of action taken by the applicant or a prior owner:

The practical difficulty was a result of the widening of the roadways abutting the property.

4. No other feasible alternative is available to the applicant, except a variance:

I do not feel there is any way I can support the investment or expenses under the current allowed use.

5. The granting of a variance will not have an unreasonably adverse effect on the natural environment:

This will have no effect on the natural environment.

6. Strict application of the dimensional standards of the ordinance to the subject property will preclude a use which is permitted in the zone in which the property is located:

The property requires +/- 394 sq. ft. to be used as a 2 family dwelling.

7. Strict application of the dimensional standards of the ordinance to the subject property will result in significant economic injury to the applicant:

The property was just purchased and will cause extreme financial difficulty to the owner without a variance.

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. Section 435, nor within a shoreland of flood hazard zone as defined in this article:

N/A

The following words have the meanings set forth below:

- a.) Dimensional Standards: Those provisions of this article which relate to lot area, lot coverage, frontage and setback requirements.
- b.) Practical difficulty: A case where strict application of the dimensional standards of the ordinance to the property for which a variance is sought would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant.
- c.) Significant Economic Injury: The value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

A Practical Difficulty Variance may not be used to grant relief from the provisions of Section 14-449 (Land Use Standards) to increase either volume or floor area, nor to permit the location of a structure, including, but not limited to, single-component manufactured homes, to be situated on a lot in a way which is contrary to the provisions of this article.

January 19, 2011

Zoning Board of Appeals  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Ref: 1920 Forest Avenue- Map 324, Block A, Lot 1

Please Accept this request for a practical difficulty variance to allow a two-unit residential use at 1920 Forest Avenue. The property is in the B-2 Zone business use district. Pursuant to Section 14-185, residential uses in the B-2 Zone are governed by the maximum residential density of the nearest residential district, in this case, the R-5 Zone. Under Section 14-120(1)(b), the R-5 Zone would require a 6000 square foot lot for the requested two-unit residential use, ( or 3000 square feet of land area per dwelling unit ).

According to records, the current lot has an area of 5604 square feet. It was reduced from 6000 square feet by the widening of Forest Avenue and Riverside Street several Years ago. The structure is now vacant but was previously used for residential purposes. According to City records a variance was granted to the previous owner in September 2007, but no permits were obtained to change the property to the two-unit residential use. City records also show that the property was last approved for a first floor commercial/retail unit and a second floor residential unit.

I bought the property in January 2011. The previous owner appeared to have made it into a three-unit structure, two residential units on the first floor, and one residential unit on the second floor. The conditions are poor and the building has been quite neglected.

The only thing preventing the structure from being used as a legal two-unit is that the lot is 394 square feet below the 6000 square foot minimum lot size. The lot has at least 4 parking spaces and there are no frontage or setback issues.

The practical difficulty variance is required here because the building cannot produce the income needed to meet the financial requirements to keep it up and running. The location, age, and configuration of the building make it nearly impossible to locate a first floor tenant for the commercial/retail use. The intersection nearby, with the traffic, would make it difficult, and even

dangerous from a public safety stand point, to have vehicles continuously in and out of the the property. I believe a two-unit residential building will fit in much better with the surroundings.

I have many updates to perform on the building to get things legal and up to code. If a variance is approved I need a new electrical service, siding, windows, bathrooms, kitchens, floors, furnace, landscaping, and many other things that will require a great deal of financial strain on my part. The improvements will be quick and very noticeable. The resulting rentals should be sufficient to help with my financial obligations that could not be met without the practical difficulty variance.

Thank you for your attention in this matter.

  
William A. Jipson

RECEIVED

JAN 24 2011

Dept. of Building Inspections  
City of Portland Maine

# THIS IS NOT A BOUNDARY SURVEY

## INSPECTION OF PREMISES

I HEREBY CERTIFY TO Terry S. Sica, Esq.

1920 Forest Avenue  
Portland, Maine

Job Number: 411-10  
Inspection Date: 12-20-10  
Scale: 1" = 20'

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

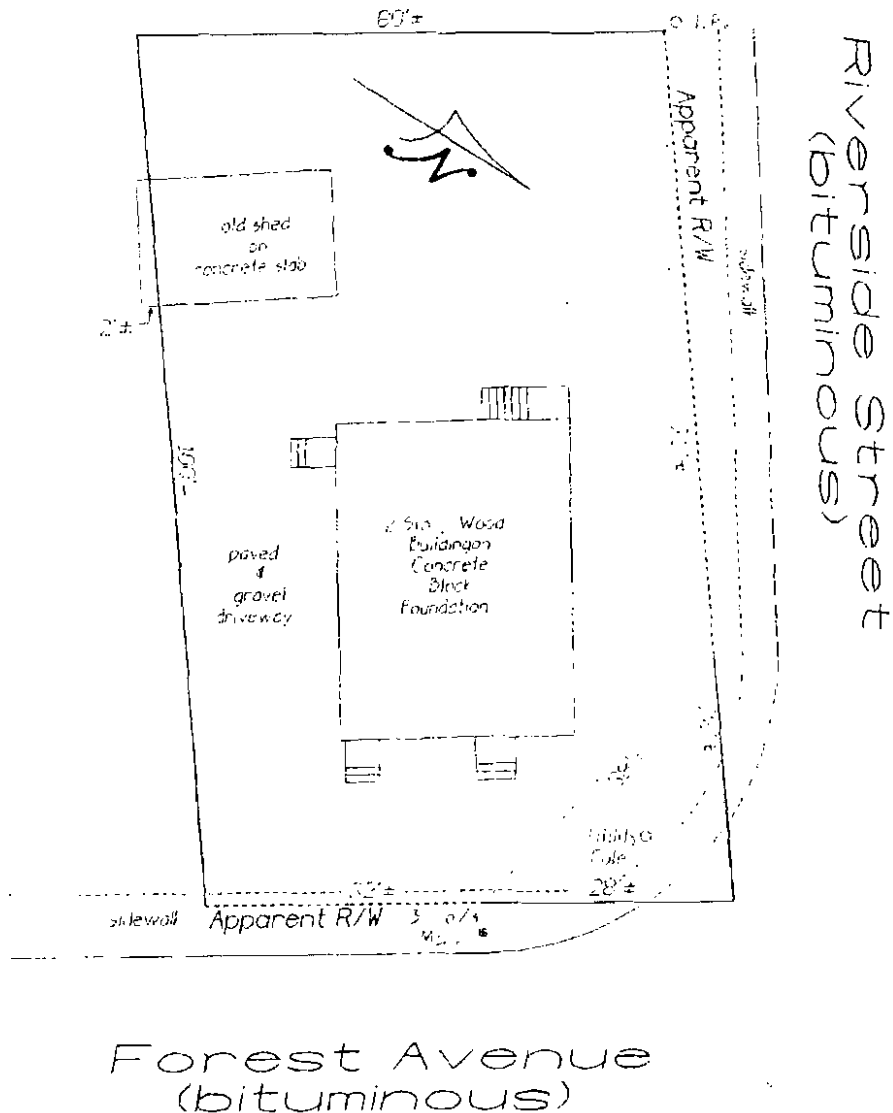
The building setbacks are ~~not~~ in conformity with town zoning requirements. *"Grandfathered"*

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 0001 B

BUYER: William A. Jipsom, Jr.

SELLER: MeCap, LLC



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**

154 John Smith Road  
Chebeague Island, Maine 04017  
Phone: (207) 846-1663  
Fax: (207) 846-1664



PLAN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ LOT \_\_\_\_\_  
DEED BOOK 27867 PAGE 183 COUNTY Cumberland

THIS PLAN IS NOT FOR RECORDING Drawn by: LS

\* All new Brickmold Double Hung windows

- 9 - 36x60
- 4 - 34x60
- 3 - 38x36
- 1 - 36x60
- 1 - 32x48
- 1 - 26x26
- 1 - 30x40

\* Updated Electric Service

- 3 gang - 200 Amp
- GFI, spikes brought up to NEC

Apparent R/W

sidewalk

Garage  
New Siding, Trim  
and roof

100'

paved  
&  
gravel  
driveway

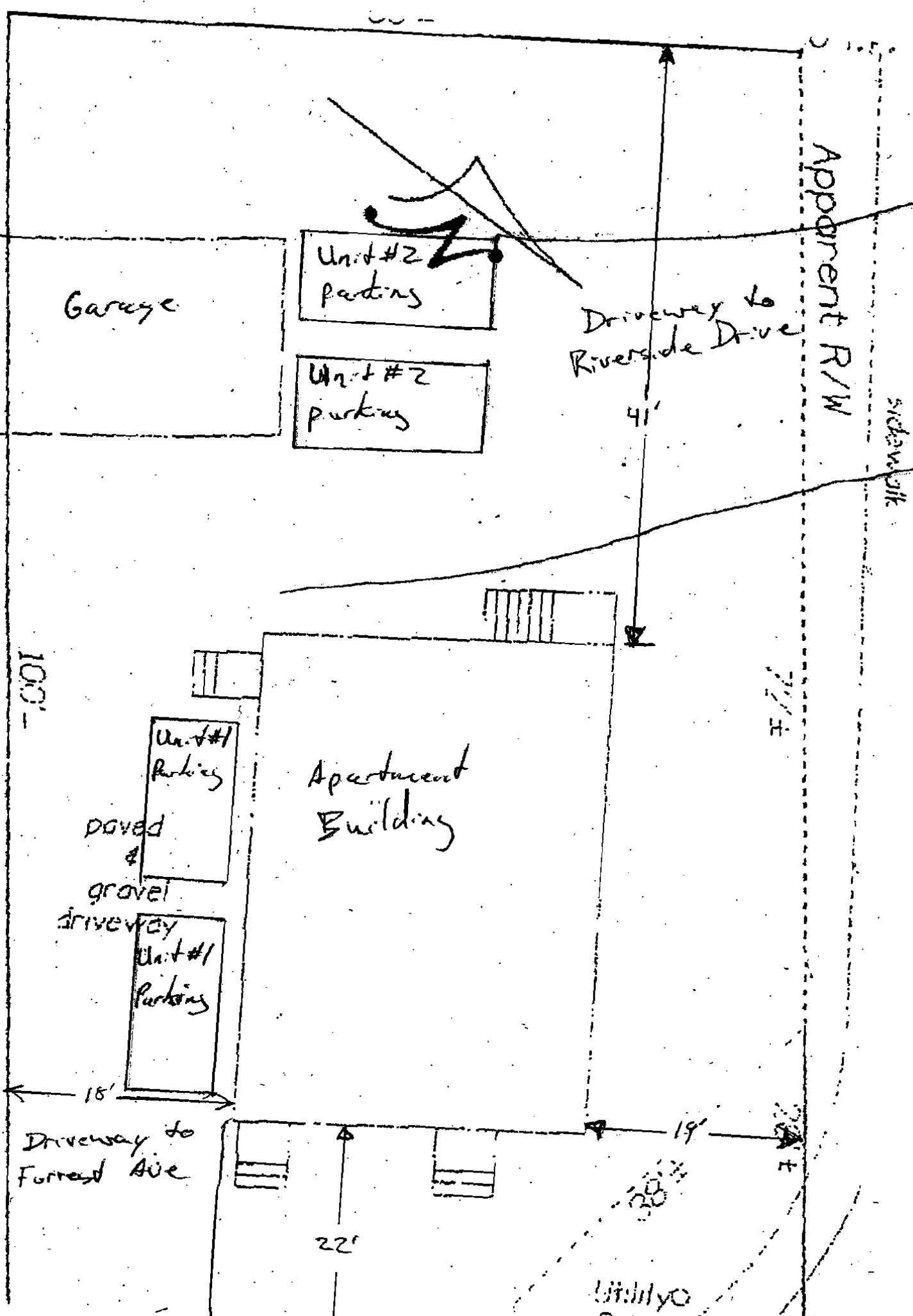
← replace door with  
steel 3'0" x 6'8"

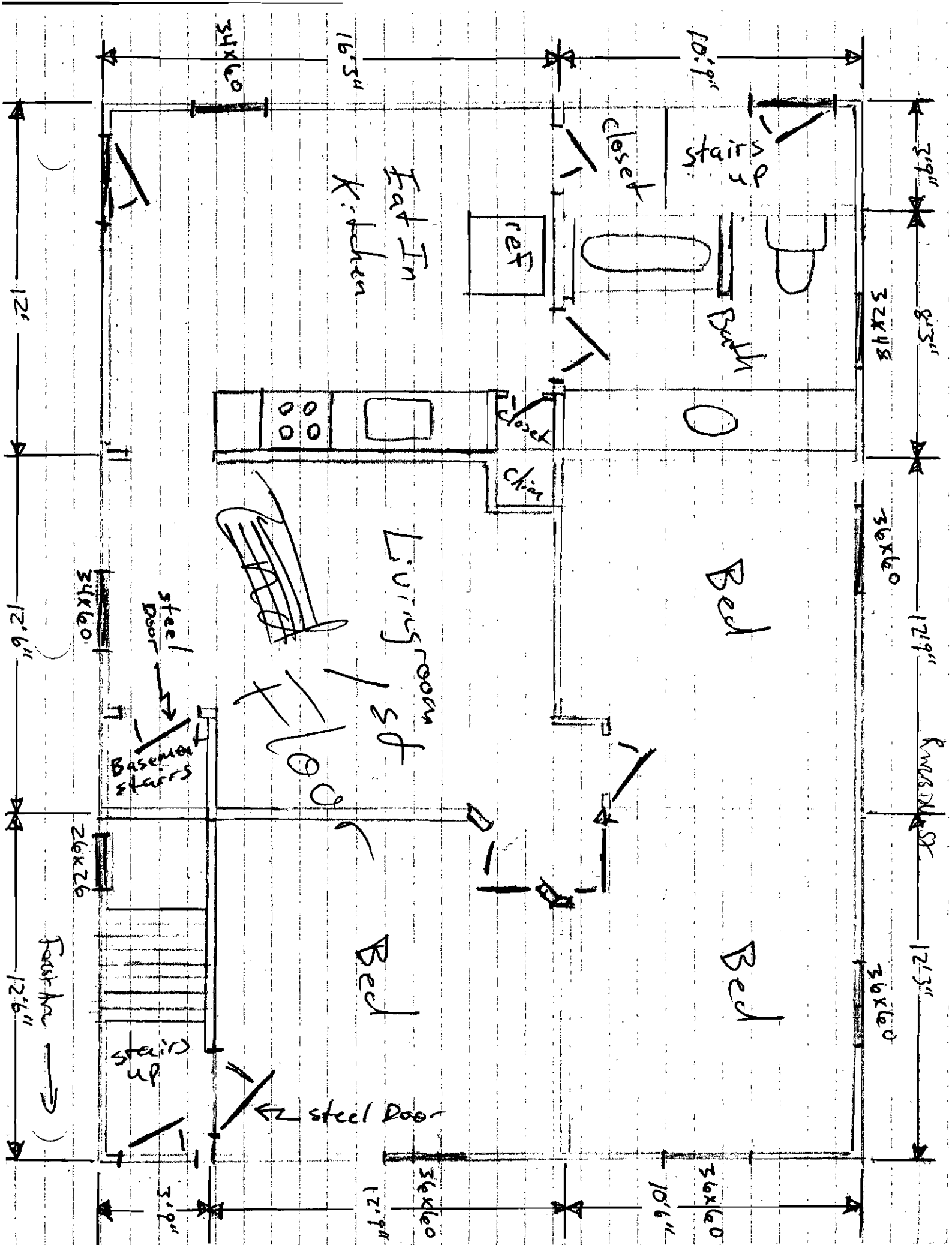
replace old door  
with 3' x 6'8"  
steel door

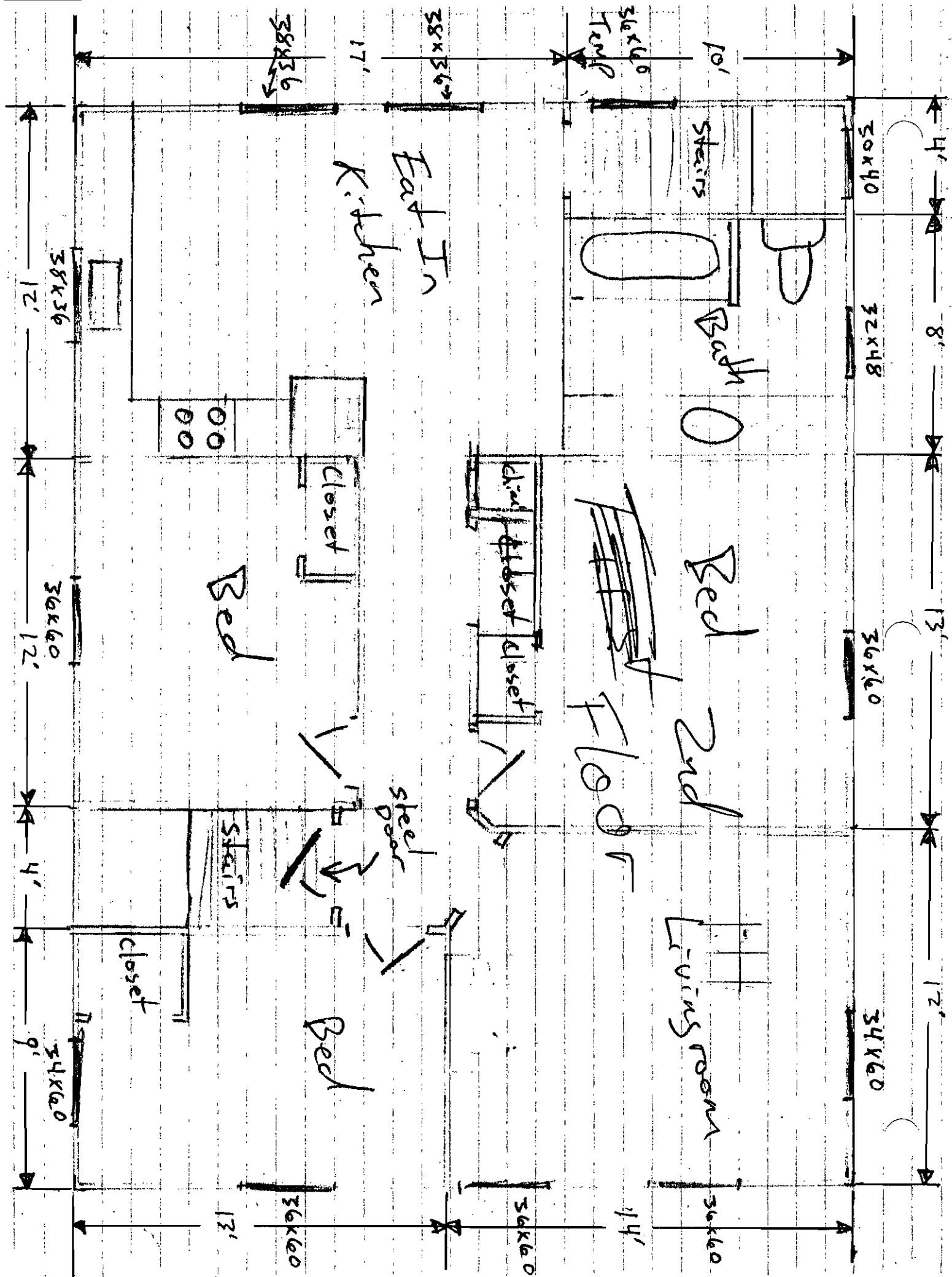
All exterior steps  
and railings  
brought up to  
code

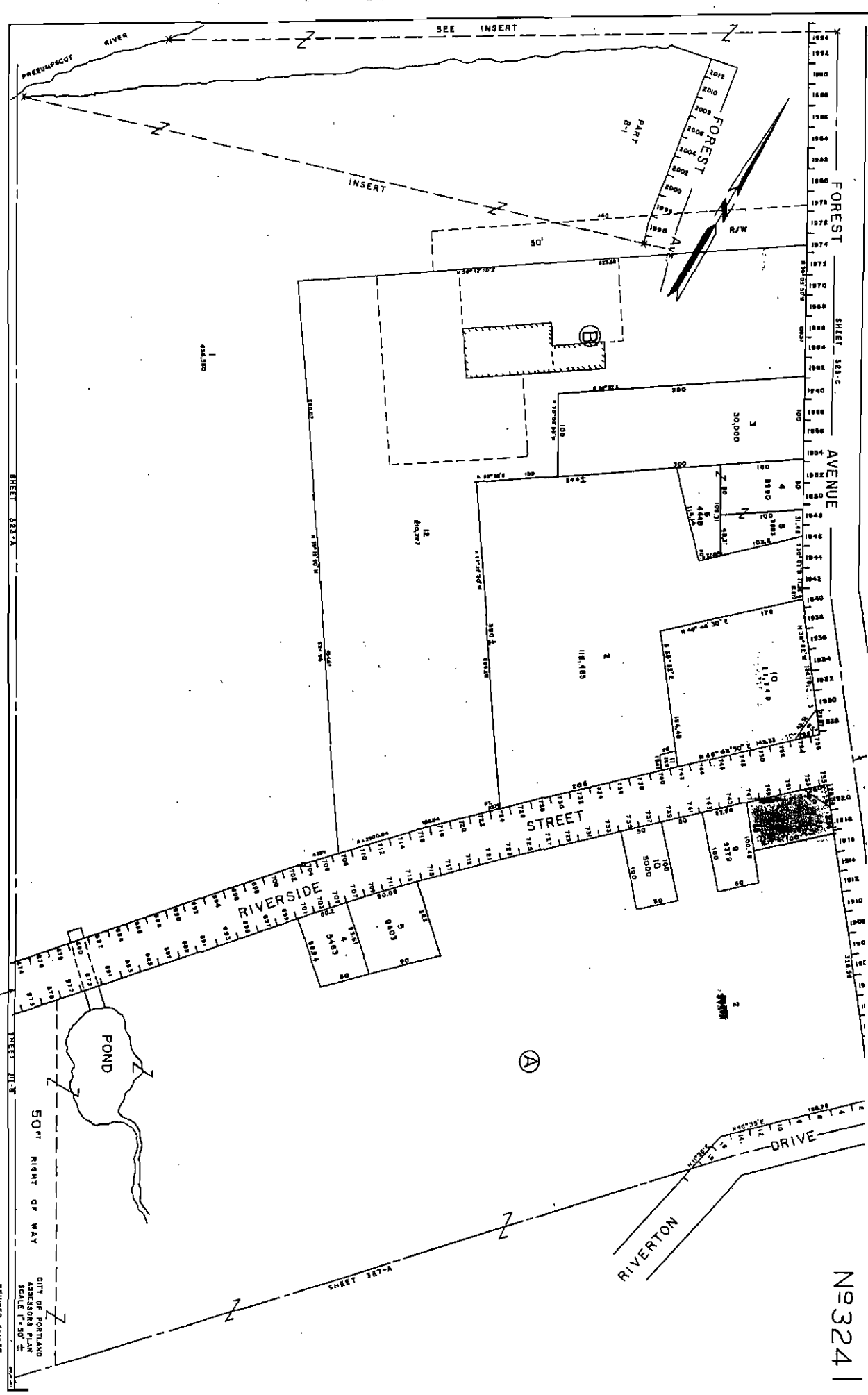
remove door  
and steps

Utility





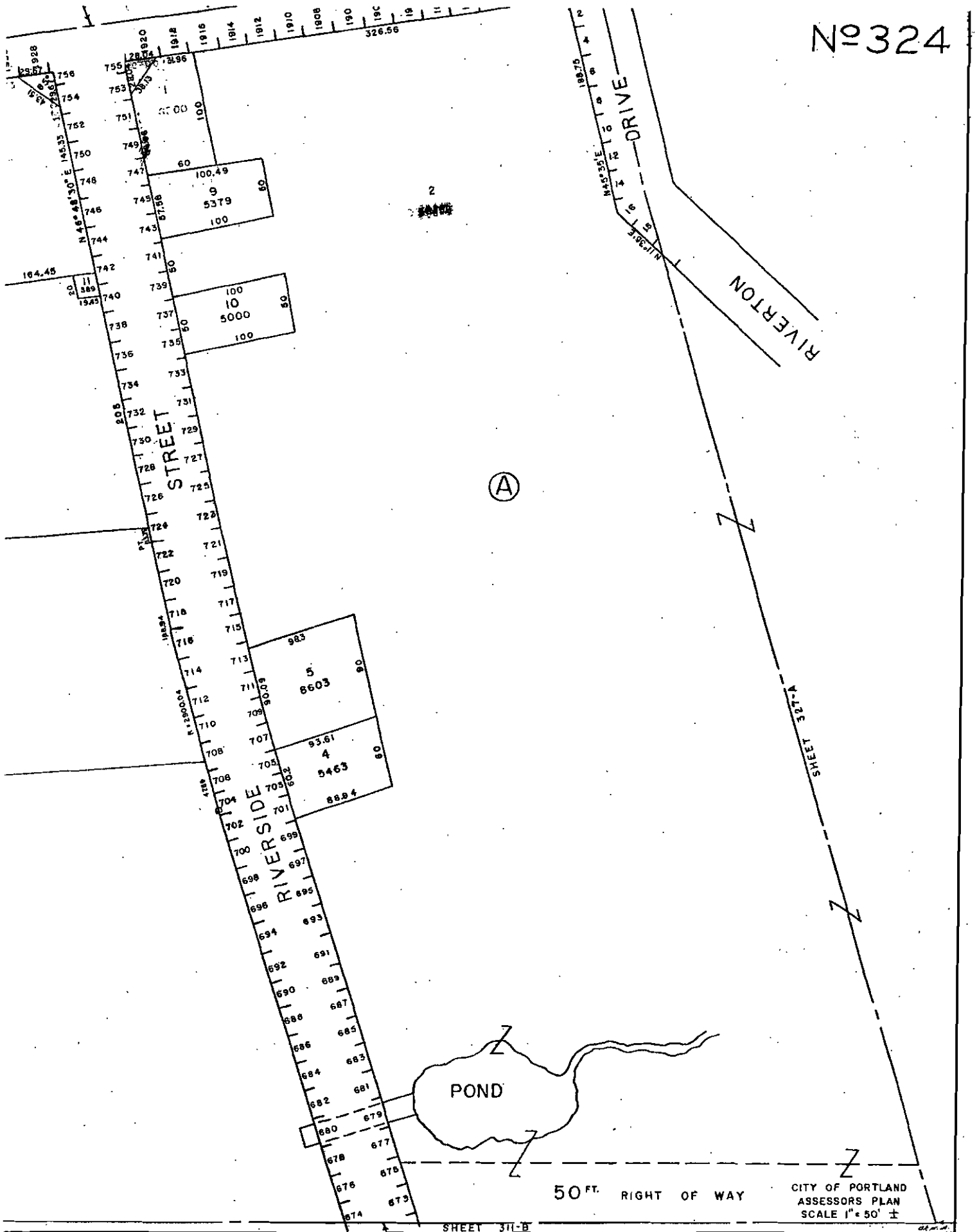




N=324

REVISION 4-1-78  
CITY OF PORTLAND  
ASSESSORS PLAN  
SCALE 1"=50' ±

Nº324



SHEET 311-B

50 FT. RIGHT OF WAY

CITY OF PORTLAND  
ASSESSORS PLAN  
SCALE 1" = 50' ±

REVISED 4-1-78

## WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that **MECAP, LLC**, a Maine Limited Liability Company, with a mailing address of 5 Milk Street, Portland, in the County of Cumberland, State of Maine, for Consideration Paid, GRANT with WARRANTY COVENANTS TO **William A. Jipson, Jr.**, an individual with a mailing address of P.O. Box 7015, Scarborough,, the following described real estate: Maine 04070

A certain lot or parcel of land with the buildings thereon situated in the City of Portland, County of Cumberland and State of Maine, more particularly described as follows:

Commencing at the point of intersection of the westerly side line of said Forest Avenue with the southerly sideline of Riverside Street, so called;

Thence southerly by said Forest Avenue line sixty (60) feet to a point;

Thence westerly and parallel with the southerly side line of said Riverside Street one hundred (100) feet to a point;

Thence northerly and parallel with said Forest Avenue line sixty (60) feet to said Riverside Street line;

Thence easterly by said Riverside Street line one hundred (100) feet to said Forest Avenue line and the point of beginning.

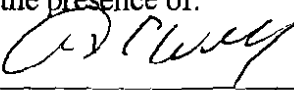
Excepting a lot or parcel of land described in deed of Jennie G. Doten to the City of Portland, recorded in Book 9548, Page 322 of the Cumberland County Registry of Deeds.

Meaning and intending to convey the same property as described in a deed from U.S. Bank National Association to MECAP, LLC of even date.

Reference is made to a deed of foreclosure recorded at Book 27867, Page 183 in said Registry.

In Witness Whereof, MECAP, LLC has caused this instrument to be executed this 5<sup>th</sup> day of ~~December, 2010.~~ January, 2011.

Signed, Sealed and Delivered  
In the presence of:



MECAP, LLC

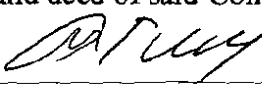
By:   
ITS Manager

STATE OF MAINE  
CUMBERLAND, SS

Dated: January 5, 2011

Personally appeared the above-named Scott Lalumiere in his capacity as Manager of MECAP, LLC, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said Company.

Before me,

  
Notary/Attorney at Law  
Alan C. Wells

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

Peter Coyne  
Philip Saucier-sec  
Peter Thornton  
Kate Knox  
Jill E. Hunter  
David Dore, chair  
Gordon Smith

September 24, 2007

Kelley Moses & Brian Stone  
48 Bramhall St.  
Portland, ME 04102

RE: 1918-1920 Forest Ave.  
CBL: 324 A001  
ZONE: B2

Dear Ms Kelley & Mr. Stone:

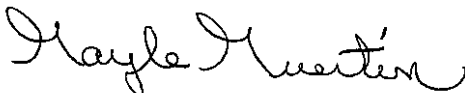
As you know, at its September 20, 2007, meeting, the board voted 4-0 to grant the Practical Difficulty Variance Appeal.

I am enclosing your Certificate of Variance Approval; **the original must be recorded in the Cumberland County Registry of Deeds within 90 days of September 25, 2007, when it was signed.** Failure to record the Certificate will result in its being voided.

Enclosed please find please find the billing for the Zoning Board Appeals legal ad and abutter's notification also a copy of the Board's decision; along with a building permit to submit to the inspections office for your change of use from one retail space and one dwelling unit to two dwelling units. You have six months from the date of this letter, referenced under section 14-474 (f) to apply for the change of use permit.

Should you have any questions please feel free to contact me at 207-874-8701.

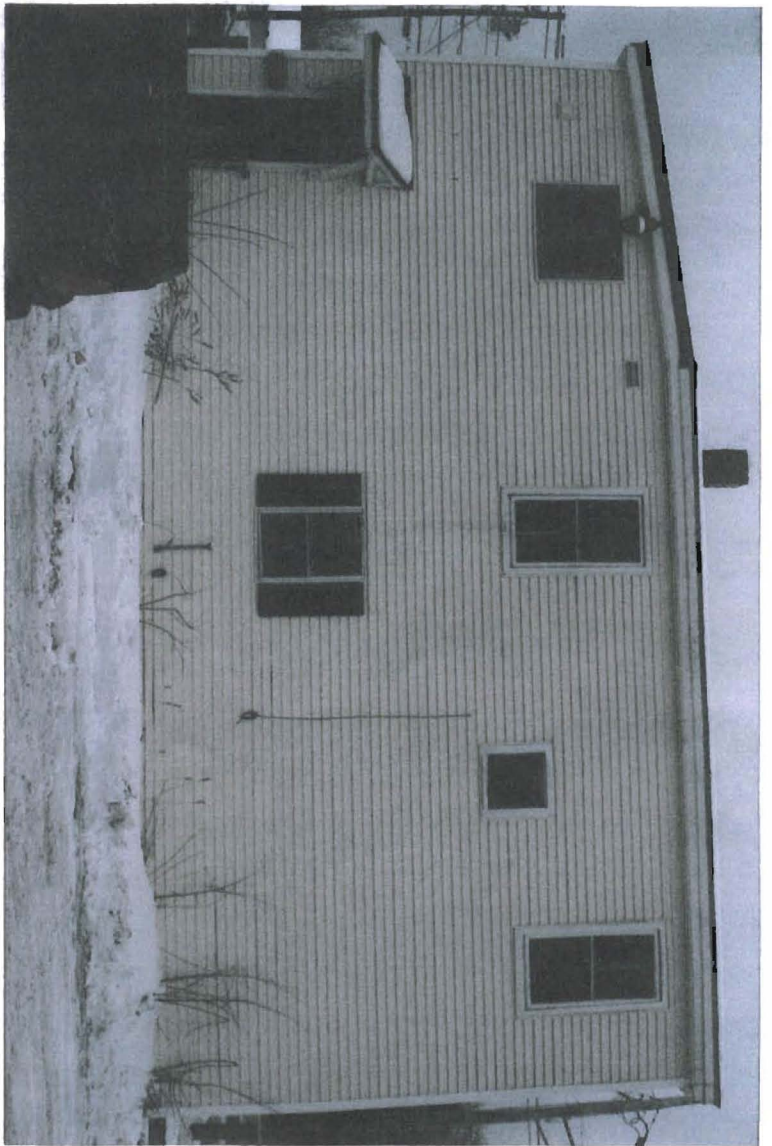
Sincerely,

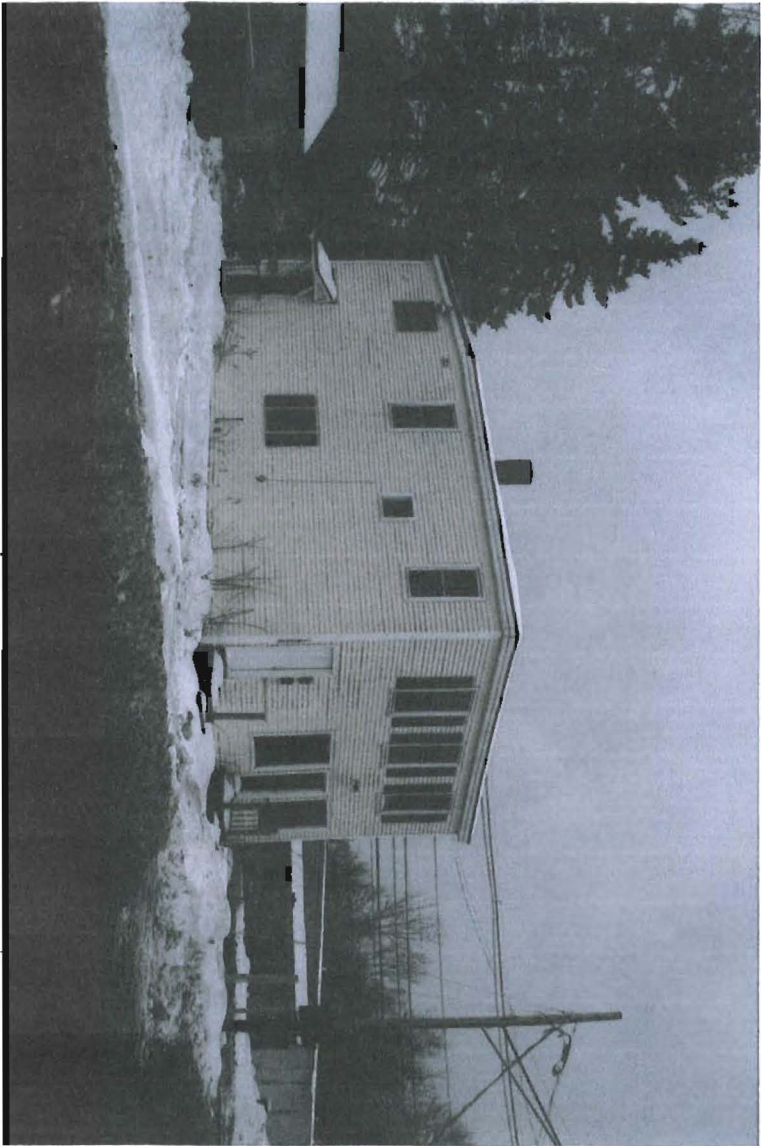


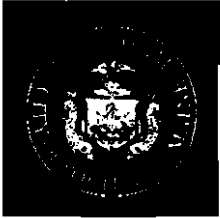
Gayle Guertin  
Office Assistant

Cc: Richard Bryant, Attorney

File







# 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*

TO: CHAIR AND MEMBERS OF THE ZONING BOARD OF APPEALS  
FROM: ANN MACHADO, ZONING SPECIALIST *ABM*  
SUBJECT: 1918-1920 FOREST AVENUE, 324-A-001 – B-2  
DATE: JANUARY 27, 2011

The purpose of this memo is to give some background on the property at 1918-1920 Forest Avenue.

Our records show the legal use of the property as “1fam. dwelling & store” from a permit issued in 1963 (Attachment A).

On August 2, 2007, a previous owner applied to change the use of the building to a lodging house. When that was denied (see letter dated August 3, 2007 – Attachment B), the applicant decided to file a practical difficulty appeal to grant relief from the minimum land area requirement of 6,000 square feet, so he could apply to change the use of the building to a two family dwelling. The practical difficulty appeal was granted on September 20, 2007 (Attachment C). The permit (#07-0926) to change the use of the building to two dwelling units was issued on December 12, 2007 (Attachment D). No work was ever done and no inspections were ever scheduled for the permit. Once a permit is issued, the applicant must start the work within 180 days of the permit being issued or it expires.

Section 14-473(e) (Attachment E) states that a variance is only valid for six months unless a building permit is issued and work is started and “diligently pursued” until the job is complete. Since no work was started after the permit was issued, the practical difficulty appeal that was granted in 2007 is not longer valid.

William Jipson has recently purchased the property and would like to change the use of the property to a two family dwelling. Since he does not meet the maximum land area per dwelling unit requirement, he must apply for a practical difficulty appeal.

Attachment A



## APPLICATION FOR PERMIT

Class of Building or Type of Structure Third Class  
Portland, Maine, Nov. 15, 1963

CITY OF PORTLAND

To the INSPECTOR OF BUILDINGS, PORTLAND, MAINE

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

Location 1920 Forest Ave. Within Fire Limits? \_\_\_\_\_ Dist. No. \_\_\_\_\_  
Owner's name and address Harold L. Doten, 1920 Forest Ave. Telephone 797-6230  
Lessee's name and address \_\_\_\_\_ Telephone \_\_\_\_\_  
Contractor's name and address owner Telephone \_\_\_\_\_  
Architect \_\_\_\_\_ Specifications \_\_\_\_\_ Plans \_\_\_\_\_ No. of sheets \_\_\_\_\_  
Proposed use of building 1 fam. dwelling & store No. families 1  
Last use \_\_\_\_\_ No. families \_\_\_\_\_  
Material frame No. stories 1 1/2 Heat \_\_\_\_\_ Style of roof pitch Roofing \_\_\_\_\_  
Other buildings on same lot \_\_\_\_\_  
Estimated cost \$ 90.00 Fee \$ 2.00

### General Description of New Work

To demolish existing platform and steps

To construct platform and steps in same location, 5'x25' on front of dwelling

*Decided to ignore 40' setback requirement since this wood platform replaces a badly deteriorated concrete one and is only 18" to 20" above the ground*  
asf

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. PERMIT TO BE ISSUED TO owner

### Details of New Work

Is any plumbing involved in this work? \_\_\_\_\_ Is any electrical work involved in this work? \_\_\_\_\_  
Is connection to be made to public sewer? \_\_\_\_\_ If not, what is proposed for sewage? \_\_\_\_\_  
Has septic tank notice been sent? \_\_\_\_\_ Form notice sent? yes  
Height average grade to top of plate \_\_\_\_\_ Height average grade to highest point of roof \_\_\_\_\_  
Size, front \_\_\_\_\_ depth \_\_\_\_\_ No. stories \_\_\_\_\_ solid or filled land? \_\_\_\_\_ earth or rock? \_\_\_\_\_  
Material of foundation lally columns - 3 1/2" Thickness, top \_\_\_\_\_ bottom \_\_\_\_\_ cellar \_\_\_\_\_  
Kind of roof at least 4' below grade - 3" o.o. Roof covering \_\_\_\_\_  
No. of chimneys \_\_\_\_\_ Material of chimneys \_\_\_\_\_ of lining \_\_\_\_\_ Kind of heat \_\_\_\_\_ fuel \_\_\_\_\_  
Framing Lumber - Kind hemlock Dressed or full size? dressed Corner posts \_\_\_\_\_ Sills 4x6  
Size Girder \_\_\_\_\_ Columns under girders \_\_\_\_\_ Size \_\_\_\_\_ Max. on centers \_\_\_\_\_  
Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.  
Joists and rafters: 1st floor 2x8s, 2nd \_\_\_\_\_, 3rd \_\_\_\_\_, roof \_\_\_\_\_  
On centers: 1st floor 2" plank, 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 \_\_\_\_\_ number commercial cars to be accommodated \_\_\_\_\_  
Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? \_\_\_\_\_

APPROVED:

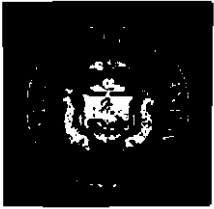
*11/14/63 - asf*

### Miscellaneous

Will work require disturbing of any tree on a public street? \_\_\_\_\_

Will there be in charge of the above work a person competent to

Attachment B



# PORTLAND MAINE

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

*Lee Urban- Director of Planning and Development  
Marge Schmuckal, Zoning Administrator*

August 3, 2007

Brian Stone  
PO Box 1073  
Portland, ME 04104

RE: 1920 Forest Avenue – 324 A001 – B-2 – Change of use to lodging house – permit #  
07-0926

Dear Mr. Stone,

I am in receipt of your application to change the use of the building at 1920 Forest Avenue from one retail space and one dwelling unit to a lodging house with five rooms and one dwelling unit. Under section 14-185(a)(2) of the ordinance, the minimum lot size in the B-2 zone for a nonresidential use is 10,000 square feet. The lot for 1920 Forest Avenue is 5,608 square feet. Since you do not meet the minimum lot size, I must deny your application to change part of the building into a five room-lodging house.

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. If you choose not to file an appeal, 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 if you have any questions.

Sincerely,

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

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

Attachment C

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

Peter Coyne  
Philip Saucier-sec  
Peter Thornton  
Kate Knox  
Jill E. Hunter  
David Dore, chair  
Gordon Smith

September 24, 2007

Kelley Moses & Brian Stone  
48 Bramhall St.  
Portland, ME 04102

RE: 1918-1920 Forest Ave.  
CBL: 324 A001  
ZONE: B2

Dear Ms Kelley & Mr. Stone:

As you know, at its September 20, 2007, meeting, the board voted 4-0 to grant the Practical Difficulty Variance Appeal.

I am enclosing your Certificate of Variance Approval; **the original must be recorded in the Cumberland County Registry of Deeds within 90 days of September 25, 2007, when it was signed.** Failure to record the Certificate will result in its being voided.

Enclosed please find please find the billing for the Zoning Board Appeals legal ad and abutter's notification also a copy of the Board's decision; along with a building permit to submit to the inspections office for your change of use from one retail space and one dwelling unit to two dwelling units. You have six months from the date of this letter, referenced under section 14-474 (f) to apply for the change of use permit.

Should you have any questions please feel free to contact me at 207-874-8701.

Sincerely,



Gayle Guertin  
Office Assistant

Cc: Richard Bryant, Attorney

File

# ~~CITY OF PORTLAND, MAINE~~

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## ZONING BOARD OF APPEALS

### APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, September 20, 2007 at 6:30 p.m. on the second floor, Room 209, City Hall, 389 Congress Street, Portland, Maine to hear the following appeals:

To: City Clerk

From: Marge Schmuckal, Zoning Administrator

Date: September 21, 2007

RE: Action taken by the Zoning Board of Appeals on September 20, 2007.

The meeting was called to order at 6:45pm.

Roll call as follows:

Members Present: Philip Saucier (acting chair), Jill Hunter, Peter Coyne and Gordon Smith.

Members Absent: Kate Knox, Peter Thornton and David Dore.

#### 1. Old Business:

##### A. Interpretation Appeal:

69 George Street, Janet Kantz, owner, Tax Map #157 Block A Lot 004 in the R3 Residential Zone. The Appellants are seeking an Interpretation Appeal concerning the construction of a new house located at 69 George Street in regards to sections 14-47, the definitions of front and side setbacks; 14-86, the purpose statement of the R-3 zone; 14-87 (a) 5 - single family, single component manufactured housing placement on the lot; and 14-90 (f) the minimum lot width requirement of 65 feet. Representing the appeal is the applicant / abutter, Dale and Pricilla Doucette located at 79 George Street. Continued from the meeting of August 16, 2007, to discuss retaining wall setbacks. Continued from the meeting of September 6, 2007, due to a lack of quorum of the members who heard the original appeal. **Board voted 4-0 and denied part one and denied part two of the Interpretation Appeal.**

#### 2. New Business:

##### A. Practical Difficulty Variance Appeal:

1918-1920 Forest Avenue, Kelley Moses and Brian Stone, owners, Tax Map # 324 Block A Lot #001, in the B2 Business Zone. The Appellant is seeking a Practical Difficulty Variance Appeal. The property is located in a B-2 zone which allows residential uses (14-182 (a)) permitted in the closest residential zone, which in this case is R-5. The B-2 zone (14-185) also refers to the closest residential zone for the dimensional requirements. Appellant is requesting a change of use from one retail space and one dwelling unit to two (2) dwelling units. Section 14-120 (a) & (b) of the R-5 zone requires a minimum of 6,000 square foot of land area instead of the approximate 5,608 square foot shown. Representing the owners for the appeal is the attorney Richard Bryant. **Board voted 4-0 and granted the Practical Difficulty Variance Appeal.**

##### B. Conditional Use Appeal:

136 Ocean Avenue, Diane Gullikson, owner Tax Map #138 Block D Lot #028 in the R5 Residential Zone. The Appellant is seeking a Conditional Use Appeal under section 14-118 (c) 3 of the City of Portland Zoning Ordinance. Appellant is requesting a Change of Use from a single

# **CITY OF PORTLAND, MAINE**

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## **ZONING BOARD OF APPEALS**

### **"Practical Difficulty" Variance Appeal**

#### **DECISION**

Date of public hearing: 9-20-07

Name and address of applicant: Kelley Moses & Briza Stone

Location of property under appeal: 1918-1920 Forest Ave  
324 A 001

#### **For the Record:**

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

Richard Bryant 20 York St Portland  
c/o Van Meer & Belanger

Todd Closson 745 Riverside St Portland

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

various photos  
plot plan  
deed description showing 60x100

Findings of Fact and Conclusions of Law:

"Practical Difficulty" Variance standard pursuant to Portland City Code §14-473(c)(3):

1. The application is for a variance from dimensional standards of the zoning ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied ☒ Not Satisfied ☐

Reason: Lot, which was 6000sf, reduced to 5604

2. Strict application of the provisions of the ordinance would create a practical difficulty, meaning it would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant. "Significant economic injury" means the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

Satisfied ☒ Not Satisfied ☐

Reason: Use currently

3. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Satisfied ☒ Not Satisfied ☐

Reason:

4-0 4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.

Satisfied ☒ Not Satisfied ☐

Reason: no effect by

4-0 5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied ☒ Not Satisfied ☐

Reason: City road widening project

4-0 6. No other feasible alternative is available to the applicant, except a variance.

Satisfied ☒ Not Satisfied ☐

Reason: Owner tried other options

4-0 7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied ☒ Not Satisfied ☐

Reason: no environment

4-0

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. § 435, nor within a shoreland zone or flood hazard zone.

Satisfied ☒ Not Satisfied ☐

Reason:


**Conclusion:** (check one)

4-0 ☒ Option 1: The Board finds that the standards described above (1 through 8) have been satisfied and therefore GRANTS the application.

☐ Option 2: The Board finds that while the standards described above (1 through 8) have been satisfied, 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 the standards described above (1 through 8) have NOT all been satisfied and therefore DENIES the application.

Dated: 9-20-07

  
Board Chair

**PHONE**

**City of Portland, Maine - Building or Use Permit**

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No:	Date Applied For:	CBL:
07-0926	08/02/2007	324 A001001

Location of Construction: 1920 FOREST AVE	Owner Name: MOSES KELLY & BRIAN STONE	Owner Address: 16 GOODRIDGE AVE	Phone:
Business Name:	Contractor Name:	Contractor Address:	Phone:
Lessee/Buyer's Name	Phone:	Permit Type: Change of Use - Dwellings	

Proposed Use: 2 Dwelling Units	Proposed Project Description: Change of use to - 2 Dwelling Units (no construction)
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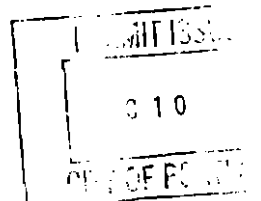
Dept: Zoning      Status: Approved with Conditions      Reviewer: Ann Machado      Approval Date: 12/05/2007  
Note: See letter dated 8/3/07.      Ok to Issue: ☒  
Needs one parking space for the change of use and one for the existing unit.  
2BA appeal 9/20/07 was practical difficulty for land area per dwelling unit to have the use be two dwelling units. Appeal was granted.  
12/05/07 Brian Stone's lawyer, Richard Bryant, came in and revised the application to be a change of use to two dwelling units.

- 1) With the issuance of this permit and the certificate of occupancy, this property shall be a two family dwelling. Any change of use shall require a separate permit application for review and approval.

Dept: Building      Status: Approved with Conditions      Reviewer: Chris Hanson      Approval Date: 12/10/2007  
Note:      Ok to Issue: ☒  
1) This is a Change of Use ONLY permit. It does NOT authorize any construction activities.  
2) Hardwired interconnected battery backup smoke detectors shall be installed in all bedrooms, protecting the bedrooms, and on every level.  
3) Application approval based upon information provided by applicant. Any deviation from approved plans requires separate review and approval prior to work.

**Comments:**

8/3/2007-amachado: Section 14-185(a)(2) lists the minimum lot size as 10,000 square feet for non-residential uses. The lot is only 5608 square feet so it does not meet the minimum lot size. See letter dated 8/3/07.





## General Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>1920 Forest Ave</u>		
Total Square Footage of Proposed Structure		Square Footage of Lot <u>6000 5600</u>
Tax Assessor's Chart, Block & Lot Chart#      Block#      Lot#	Owner: <u>BRIAN STONE</u>	Telephone: <u>807-6178</u>
Lessee/Buyer's Name (If Applicable)	Applicant name, address & telephone: <u>BRIAN STONE</u> <u>PO BOX 1073</u> <u>PORTLAND ME.</u> <u>04104</u>	Cost Of Work: \$ Fee: \$ <u>30</u> C of O Fee: \$ <u>75</u>
Current legal use (i.e. single family) <u>RETAIL &amp; ONE DWELLING UNIT /05</u> If vacant, what was the previous use? Proposed Specific use: <u><del>RETAIL &amp; ONE DWELLING UNIT /05</del> / 2 DWELLING UNITS</u> Is property part of a subdivision? <u>NO</u> If yes, please name _____ Project description: <u>CHANGE OF USE - NO CONSTRUCTION</u>		
Contractor's name, address & telephone: Who should we contact when the permit is ready: <u>BRIAN STONE</u> Mailing address: _____ Phone: <u>807-6178</u>		

Please submit all of the information outlined in the Commercial Application Checklist.  
Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at [www.portlandmaine.gov](http://www.portlandmaine.gov), stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant: <u>[Signature]</u> DEC	Date: <u>8/2/07</u>
---	---------------------

This is not a permit; you may not commence ANY work until the permit is issued.

## Attachment E

City of Portland  
Code of Ordinances  
Sec. 14-473

Land Use  
Chapter 14  
Rev.12-15-10

(d) *Conditions on variances; variances less than requested.* Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

(e) *Limitations on variances.* No variance permitting the erection or alteration of a building shall be valid for a period longer than six (6) months, or such other time as may be fixed at the time granted not to exceed two (2) years, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. One (1) or more extensions of said expiration dates may be granted if the facts constituting the basis of the decision have not materially changed and the two-year period is not exceeded thereby. No variance relating to the establishment or maintenance of a use not involving a building or structure shall be valid for a period longer than six (6) months, or such other time as may be fixed at the time granted not to exceed two (2) years, unless an occupancy permit is issued and a use commenced within such period; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby.

(f) *Recording of variances.* No variance shall be valid unless, within thirty (30) days of final approval of the variance, a certificate describing the variance has been recorded by the applicant for the variance in the registry of deeds as required by 30 M.R.S.A. Section 4963.

(Code 1968, § 602.24.C; Ord. No. 437-74, 7-1-74; Ord. No. 467-83, § 1, 4-20-83; Ord. No. 563-84, 5-7-84; Ord. No. 357-84, § 1, 12-17-84; Ord. No. 354-85, § 6, 1-7-85; Ord. No. 40-85, § 1, 7-15-85; Ord. No. 67-87, § 5, 11-2-87; Ord. No. 93-88, 7-19-88; Ord. No. 167-89, 12-11-89; Ord. No. 324-92, 4-22-92; Ord. No. 164-97, § 13, 1-6-97; Ord. No. 208-98, §§ 1, 2, 2-2-98; Ord. No. 253-05/06, 7-17-06; Ord. No. 296-08/09, 6-15-09)



## City of Portland Zoning Board of Appeals

January 25, 2011

William Jipson  
PO Box 7015  
Scarborough, ME 04070

Dear Mr. Jipson,

Your Practical Difficulty Appeal has been scheduled to be heard before the Zoning Board of Appeals on **Thursday, February 3, 2011 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, 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
	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

CITY OF PORTLAND  
DEPARTMENT OF PLANNING & DEVELOPMENT

389 Congress Street  
Portland, Maine 04101

INVOICE FOR FEES

Application No:	2011-171	Applicant:	William Jipson
CBL:	324 A001	Application Type:	Practical Difficulty Appeal
Location:	1920 Forest Avenue	Invoice Date:	1/25/11
		Scarcare sent	2/1/11

<u>Fee Description</u>	<u>QTY</u>	<u>Fee/Deposit Charge</u>
Legal Advertisements	1	\$139.94
Notices	19	\$14.25
Processing Fee	1	\$50.00
Zoning Practical Difficulty	1	\$100

Pat # 1217  
2/1/11

Total Current Fees: \$304.19  
Total Current Payments: -\$100.00

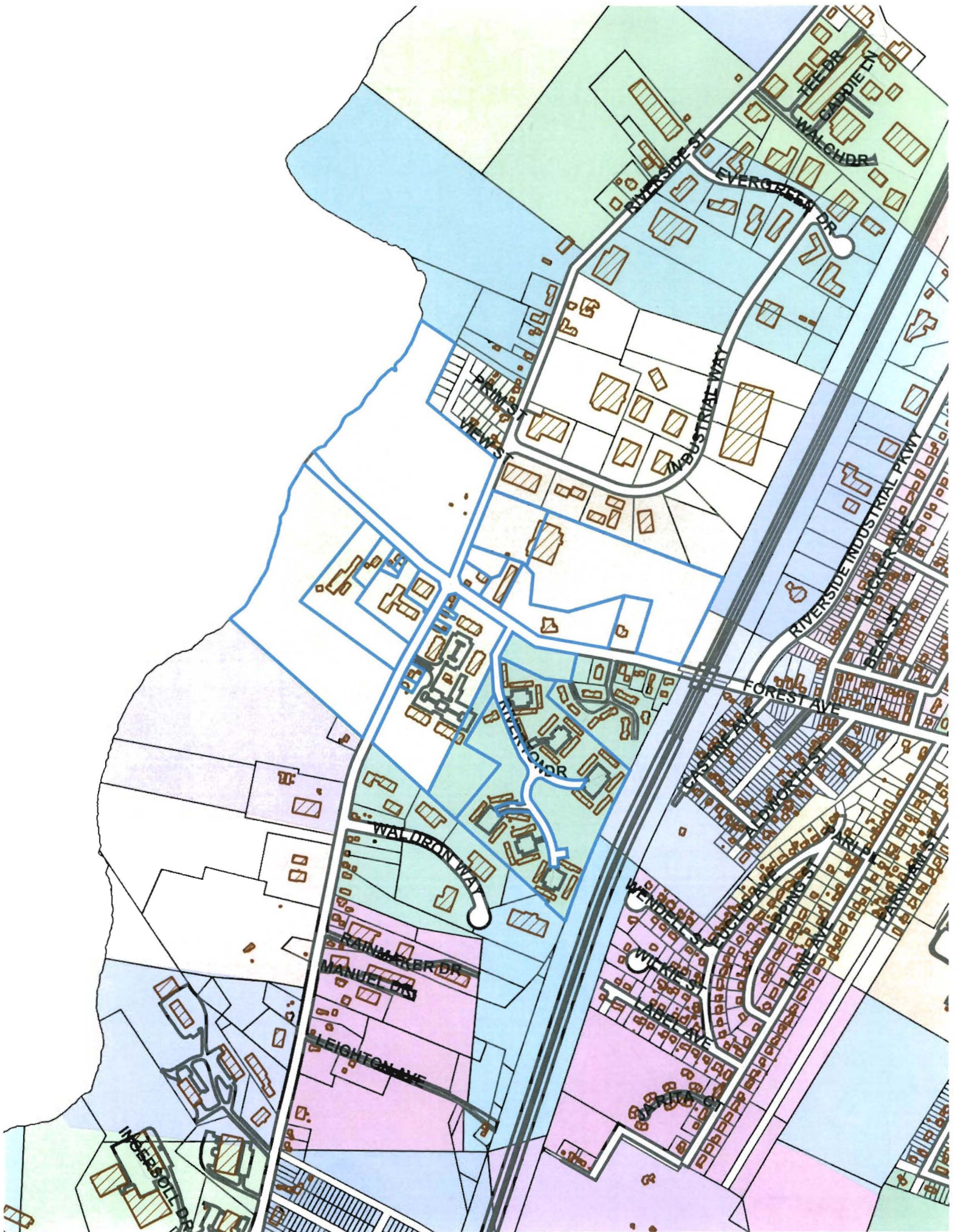
Amount Due Now: \$204.19

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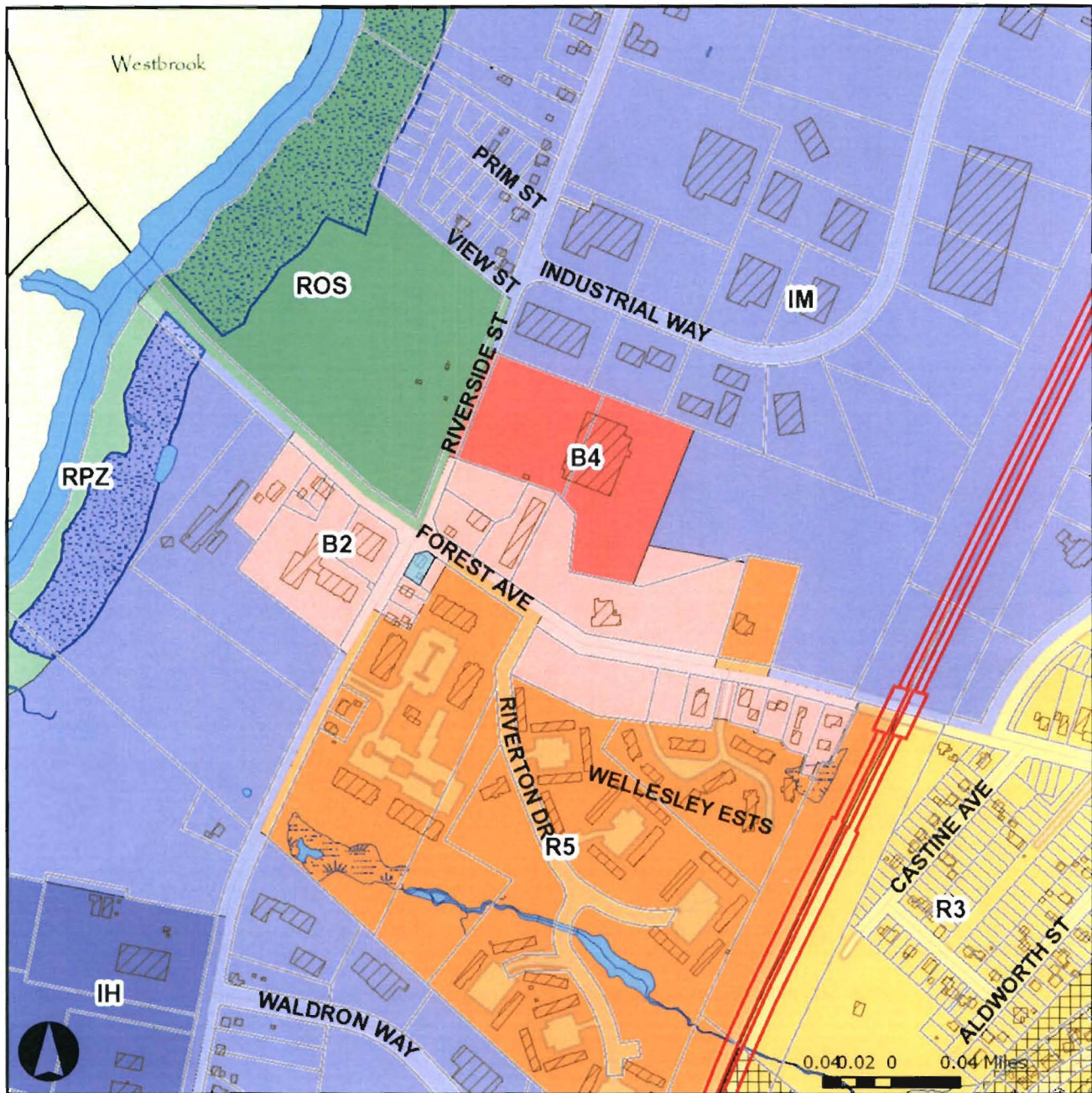
Bill to:	CBL: 324 A005	Application No: 2011-171
William Jipson	Invoice Date: 01/25/11	<u>Total Amount Due: \$204.19</u>
PO Box 7015		(due on receipt)
Scarborough, ME 04070		

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CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
	✓ 1901 FOREST AVE LLC	20 CONTINENTAL DR PORTLAND, ME 04103	1901 FOREST AVE	1
	ANDERSON ERIC E & JEANNE M ENGBRECHT JTS	707 RIVERSIDE ST PORTLAND, ME 04103	707 RIVERSIDE ST	1
	✓ BRENNER BROTHERS LLC	69 FOUR WINDS RD PORTLAND, ME 04102	752 RIVERSIDE ST	1
	CHAU JOHN & PHUONG NEANG JTS	75 ARCADIA ST PORTLAND, ME 04103	1884 FOREST AVE	0
	✓ CLOSSON TODD L	745 RIVERSIDE ST PORTLAND, ME 04103	745 RIVERSIDE ST	1
	✓ DIXON WILLIAM F	2400 NE 36 ST # 12 LIGHTHOUSE POINT, FL 33064	1948 FOREST AVE	3
	DIXON WILLIAM F	2400 NE 36 ST # 12 LIGHTHOUSE POINT, FL 33064	1954 FOREST AVE	1
	FENTON CLARENCE A	705 RIVERSIDE ST PORTLAND, ME 04103	705 RIVERSIDE ST	1
	✓ HANNAFORD BROS CO	PO BOX 1000 PORTLAND, ME 04104	771 RIVERSIDE ST	0
	✓ HANNAFORD BROS CO	PO BOX 1000 PORTLAND, ME 04101	779 RIVERSIDE ST	0
	✓ HANNAFORD BROS CO	PO BOX 1000 PORTLAND, ME 04101	779 RIVERSIDE ST	1
	✓ INTENTIONALLY LEFT BLANK LLC	927 ROUTE 1 BYPASS PORTSMOUTH, NH 03801	736 RIVERSIDE ST	1
	✓ NORTHERN UTILITIES INC	6 LIBERTY LN WEST HAMPTON, NH 03842	742 RIVERSIDE ST	0
	PORTLAND HOUSING AUTHORITY	14 BAXTER BLVD PORTLAND, ME 04101	17 RIVERTON DR	30
	✓ POWELL REALTY ATTN TORTILLA FLAT	103 HASSETT LN WILLISTON, VT 05495	1871 FOREST AVE	1
	✓ ROSS-MONROE LLC	200 STAR AVE STE 212 PARKERSBURG, WV 26101	1917 FOREST AVE	1
	✓ SCA SERVICES OF MAINE INC	PO BOX 1450 CHICAGO, IL 60690	2000 FOREST AVE	1
	✓ TERRACE POND LLC	10 MOULTON ST 4TH FLOOR PORTLAND, ME 04101	723 RIVERSIDE ST	77
	US BANK NATIONAL ASSOCIATION TRUSTEE	10790 RACINHO BERNARDO RD SAN DIEGO, CA 92127	1920 FOREST AVE	1
	✓ WASTE MANAGEMENT OF MAINE	PO BOX 1450 CHICAGO, IL 60690	2012 FOREST AVE	1
	✓ WORCESTER ROBERT W & VICTORIA A JTS	737 RIVERSIDE ST PORTLAND, ME 04103	737 RIVERSIDE ST	1



# Map



## Parcels

- Interstate
- Streets
- Buildings
- Out Building

## Stream Overlay Zone

- Stream\_protection
- Island Zoning
- C43
- I-B
- I-TS
- I-R1
- I-R2

## Zoning (continued)

- R2 Residential
- R3 Residential
- R4 Residential
- R5 Residential
- R6 Residential
- ROS Recreation Open Space

## Zoning (continued)

- C25
- C26
- C27
- C28
- C29
- C30
- C31