

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Philip Saucier-chair
Sara Moppin
Jill E. Hunter
Gordan Smith-secretary
William Getz

August 20, 2010

Michael Mulkern
241 Elm Street
South Portland, ME 04106

RE: 1445 Forest Avenue
CBL: 340 D003
ZONE: R-3

Dear Mr. Mulkern:

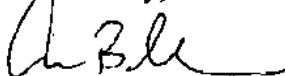
At the August 19, 2010 meeting, the Zoning Board of Appeals voted 4-0 to deny your interpretation appeal, and they voted 4-0 to accept your withdrawal of your variance appeal. I have enclosed a copy of the Board's decisions. I have also enclosed a receipt for your payment of the fee for the appeals.

Now that your appeal has been denied, you must bring your property into compliance. There should be one dwelling unit on the first floor and one dwelling unit on the second floor. I know that you have been working with our code enforcement office to be compliant. This process should be finished as soon as possible. Please contact our office if you have any questions.

Appeals from decisions of the Board may be filed in Superior Court, pursuant to 30-A M.R.S.A. section 2691 (2) (G).

Should you have any questions please feel free to contact me at 207-874-8709.

Yours truly,



Ann B. Machado
Zoning Specialist

Cc. file

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk

From: Marge Schmuckal, Zoning Administrator

Date: August 20, 2010

RE: Action taken by the Zoning Board of Appeals on August 19, 2010.

Members Present: Phil Saucier (chair), Gordon Smith (secretary), Sara Moppin, and William Getz

Members Absent: Jill Hunter

1. New Business:

A. Practical Difficulty Variance Appeal:

615 Forest Avenue, James Andrews, owner, Tax Map 125, Block N, Lot 003, B-2b Community

Business Zone: The applicant is seeking a variance from the residential density requirements of the B-2b zone. The current use of the property is commercial on the first floor with two residential dwelling units above. The appellant is seeking to add a third dwelling unit on the first floor. Section 14-182(a)(2) allows multi-family dwellings in the B-2b zone in any structure with commercial uses in the first floor. In order to determine the maximum residential density for property located off-peninsula in the B-2b zone, the residential density requirements of the nearest residential zone apply [section 14-185(a)(5)(b)(i)]. The nearest residential zone is R-3, and it requires 6,500 square feet of land area per dwelling unit [section 14-90(b)]. The applicant's total lot size is 2,183 square feet. The applicant is requesting a variance from the 6,500 square feet of land area per dwelling unit requirement, which would result in 727 square feet of land area per dwelling unit if a third unit is permitted. Representing the appeal is the owner. **The Board voted 4-0 to deny the variance appeal to allow a dwelling unit to be added to the first floor of the building.**

B. Interpretation Appeal:

1445 Forest Avenue, Michael Mulkern, owner, Tax Map 340, Block D, Lot 003, R-3 Residential Zone:

The appellant is seeking a variance to add one dwelling unit to an existing two family dwelling in the R-3 zone. A multi-family dwelling is not a permitted use in the R-3 Zone [section 14-87(a)]. Section 14-473(c)(4)(a) does not allow a use variance to be granted in a low density residential district (IR-1, IR-2, IR-3, R-1, R-2, R-3) for a use that is only allowed in a medium or high density residential district (R-4, R-5, R-6). The applicant is challenging the interpretation of section 14-473(c)(4)(a), arguing that they should be permitted to apply for a variance. Representing the appeal is the owner. **The Board voted 4-0 to deny the interpretation appeal.**

C. Variance Appeal:

1445 Forest Avenue, Michael Mulkern, owner, Tax Map 340, Block D, Lot 003, R-3 Residential Zone:

The current legal use of the property is two residential dwelling units. The appellant would like to add a third dwelling unit. Section 14-87(a) lists the permitted residential uses in the R-3 zone. Multifamily

dwelling units are not permitted. The applicant is requesting a use variance to be allowed to add one additional dwelling unit to the property for a total of three dwelling units. Representing the appeal is the owner. **The Board voted 4-0 to accept the withdrawal of the variance appeal.**

D. Conditional Use Appeal:

173 Neal Street, Pramod Shrestha, lessee, Tax Map 054, Block G, Lot 023, B-2b Community Business Zone & R-6 Residential Zone: The appellant is seeking a Conditional Use Appeal under section 14-183(b)(1) to have a silk screening and embroidery business. Representing the appeal is Pramod Shrestha, the lessee. **The Board voted 4-0 to grant the conditional use appeal allowing the applicant to have a silk screening and embroidery business.**

E. Variance Appeal:

141-151 Auburn Street, Lewis McDonald, owner, Tax Map 125, Block B, Lots 008 & 013, R-3 Residential Zone: The appellant was granted a conditional use appeal on January 22, 2004 to add an additional dwelling unit to his single family home. Section 14-88(a)(2)(g)(iii) requires the owner to occupy one of the dwelling units. The applicant is requesting a variance to waive the requirement that the property has to be owner occupied. Representing the appeal is the owner. **The Board voted 4-0 to deny the variance to waive the requirement that the property be owner occupied.**

Enclosure:

Decision for Agenda from August 19, 2010

Original Zoning Board Decision

One dvd

CC: Joseph Gray, City Manager

Penny St. Louis Littell, Director, Planning & Urban Development

Alex Jaegerman, Planning Division

Members Present: Philip Saucier - Gordon Smith - Bill Getz - SARA

mappm

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Member absent: Jill Hunter

APPEAL AGENDA

called to order 6:40

The Board of Appeals will hold a public hearing on Thursday, August 19, 2010 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 Appeals:

1. New Business:

A. Practical Difficulty Variance Appeal:

A-φ

Denied

615 Forest Avenue, James Andrews, owner, Tax Map 125, Block N, Lot 003, B-2b Community Business Zone: The applicant is seeking a variance from the residential density requirements of the B-2b zone. The current use of the property is commercial on the first floor with two residential dwelling units above. The appellant is seeking to add a third dwelling unit on the first floor. Section 14-182(a)(2) allows multi-family dwellings in the B-2b zone in any structure with commercial uses in the first floor. In order to determine the maximum residential density for property located off-peninsula in the B-2b zone, the residential density requirements of the nearest residential zone apply [section 14-185(a)(5)(b)(i)]. The nearest residential zone is R-3, and it requires 6,500 square feet of land area per dwelling unit [section 14-90(b)]. The applicant's total lot size is 2,183 square feet. The applicant is requesting a variance from the 6,500 square feet of land area per dwelling unit requirement, which would result in 727 square feet of land area per dwelling unit if a third unit is permitted. Representing the appeal is the owner.

B. Interpretation Appeal:

A-φ
Denied

1445 Forest Avenue, Michael Mulkern, owner, Tax Map 340, Block D, Lot 003, R-3 Residential Zone: The appellant is seeking a variance to add one dwelling unit to an existing two family dwelling in the R-3 zone. A multi-family dwelling is not a permitted use in the R-3 Zone [section 14-87(a)]. Section 14-473(c)(4)(a) does not allow a use variance to be granted in a low density residential district (IR-1, IR-2, IR-3, R-1, R-2, R-3) for a use that is only allowed in a medium or high density residential district (R-4, R-5, R-6). The applicant is challenging the interpretation of section 14-473(c)(4)(a), arguing that they should be permitted to apply for a variance. Representing the appeal is the owner.

C. Variance Appeal:

A-φ
Withdrawn

1445 Forest Avenue, Michael Mulkern, owner, Tax Map 340, Block D, Lot 003, R-3 Residential Zone: The current legal use of the property is two residential dwelling units. The appellant would like to add a third dwelling unit. Section 14-87(a) lists the permitted residential uses in the R-3 zone. Multifamily dwellings are not permitted. The applicant is requesting a use variance to be allowed to add one additional dwelling unit to the property for a total of three dwelling units. Representing the appeal is the owner.

4-9

D. Conditional Use Appeal:

173 Neal Street, Pramod Shrestha, lessee, Tax Map 054, Block G, Lot 023, B-2b

GRANTED

Community Business Zone & R-6 Residential Zone: The appellant is seeking a Conditional Use Appeal under section 14-183(b)(1) to have a silk screening and embroidery business. Representing the appeal is Pramod Shrestha, the lessee.

E. Variance Appeal:

141-151 Auburn Street, Lewis McDonald, owner, Tax Map 125, Block B, Lots 008 & 013, R-3 Residential Zone: The appellant was granted a conditional use appeal on

4-0
DENIED

January 22, 2004 to add an additional dwelling unit to his single family home. Section 14-88(a)(2)(g)(iii) requires the owner to occupy one of the dwelling units. The applicant is requesting a variance to waive the requirement that the property has to be owner occupied. Representing the appeal is the owner. The Board Does not have

~~the~~ The Right to grant this VARIANCE

2. Adjournment:

↓
8:20pm

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Multifamily Dwelling in an R-3 Zone

Interpretation Appeal

DECISION

Date of public hearing: August 19, 2010

Name and address of applicant: Michael Mulkern
241 Elm Street
South Portland, ME 04106

Location of property under appeal: 1445 Forest Ave.

For the Record:

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

Michael Mulkern

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

Findings of Fact and Conclusions of Law:

The Board's authority to review an interpretation of the building authority is pursuant to Section 14-472 of the land use code.

The applicant is seeking a variance in order to add an additional unit to an existing two-family dwelling in the R-3 zone. Whereas multifamily dwellings are not a permitted use in the R-3 zone, the applicant would need a variance in order to have such a use in the zone. However, the City's Land Use Code, Section 14-473(e)(4), prohibits outright certain variances from being granted. One such variance is one that would permit a use in a low density residential district that is permitted in medium or high density residential districts but not in low-density districts. The City determined that since the R-3 is a low density residential district which does not permit multifamily dwellings, then a variance to allow such a use that is permitted in medium and high density districts is prohibited by Section 14-473(e)(4)(a).

Sec. 14-473. Variances.

(4) *Specified variances prohibited:*

a. No use permitted in medium- and high-density residential districts shall be permitted in low-density residential districts. No use permitted in business districts shall be permitted in any residential district. No use permitted in industrial districts shall be permitted in any business or residential district. No use permitted in residential districts shall be permitted in any industrial district. The general use categories are listed below:

1. Low-density residential: IR-1, IR-2, IR-3, R-1, R-2, R-3.
2. Medium- and high-density residential: R-4, R-5, R-6.
3. Business: R-P, B-1, B-2, B-3, A-B, B-4, B-5, I-B.
4. Industrial: I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb.

Finding:

Appellant has demonstrated that the Interpretation of the Zoning Administrator was incorrect or improper.

Satisfied

Not Satisfied

Reason and supporting facts:

Section 14-473 precludes Board
from issuing variance; ordinance
is clear on its face; ~~clear~~ language


Decision: (check one)

 Option 1: The Board finds that the Appellant has satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore GRANTS the application.

 ✓ Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator was incorrect or improper, and therefore DENIES the application.

Dated:

8/18/10



Board Chair



**City of Portland, Maine
Department of Planning and Urban Development
Zoning Board of Appeals
Interpretation Appeal Application**

Applicant Information:

Name Michael E. Mulken

Business Name

241 Elm St.

Address

South Portland Me

Telephone 202 299 2682 Fax 899 5158

Applicant's Right, Title or Interest in Subject Property

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

Current Zoning Designation: R-3

Existing Use of Property:

2 family

Type of Relief Requested:

would like to
be permitted to
apply for a use variance
for a multi-family

Subject Property Information:

Property Address 1445 Forest Ave.

Assessor's Reference (Chart-Block-Lot) 340-D-3

Property Owner (if different):

Name _____
Address _____

Telephone _____ Fax _____

Disputed Provisions from Section 14 - 473(c)(4)(a)

Order, decision, determination, or interpretation under dispute:

the use of the property
is already a medium
density use as a 2 family

RECEIVED

JUL 29 2010

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 the relief 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 of Applicant Michael E. Mulken

Date 7/29/10

From:

Michael Mulkeen
241 Elm St.

South Portland, Me. 04106

799 2682 / 899 5158

To

Zoning
Board of Appeals

I would like to add
a third unit at 1445
Forest Ave.

The three bedroom on
the 1st floor would become
2 1 bedroom units
therefore no additional people
or traffic.

The reason I think it
should be allowed to do so
is the building is already
being allowed to be used
as a 2 family which is
a medium density use.

Thank you for your
consideration

Mul Mul

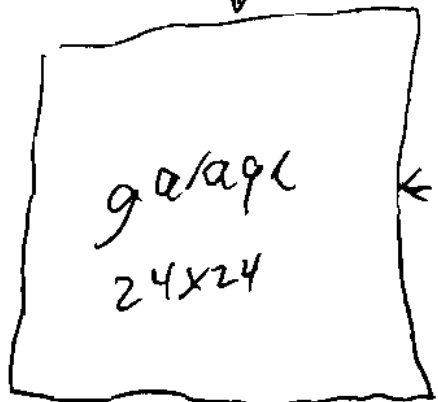
RECEIVED

AUG 3 2010

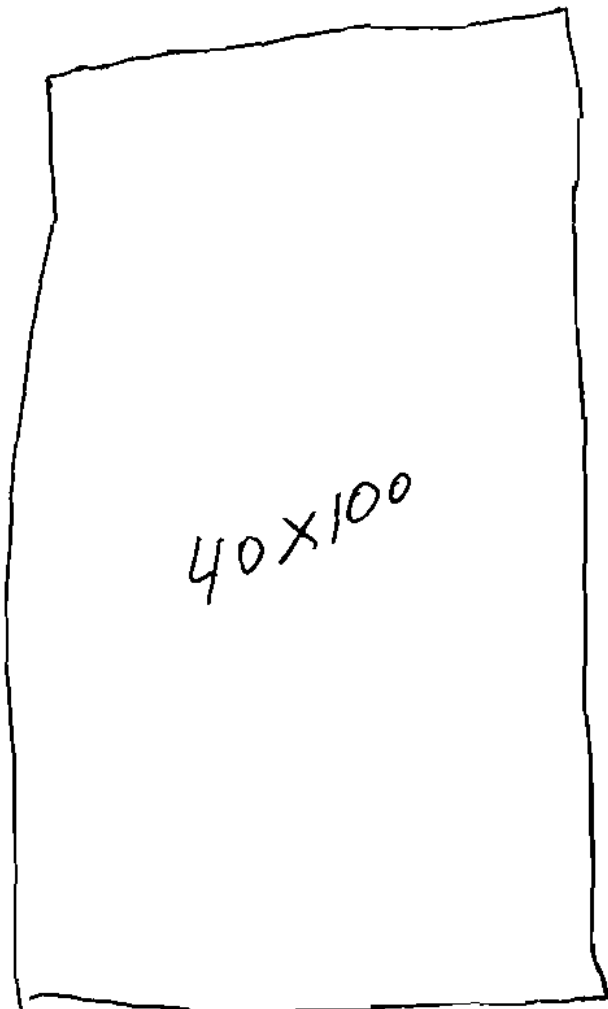
RECEIVED

AUG - 5 2010

Dept. of Building Inspections
City of Portland Maine



←15'→



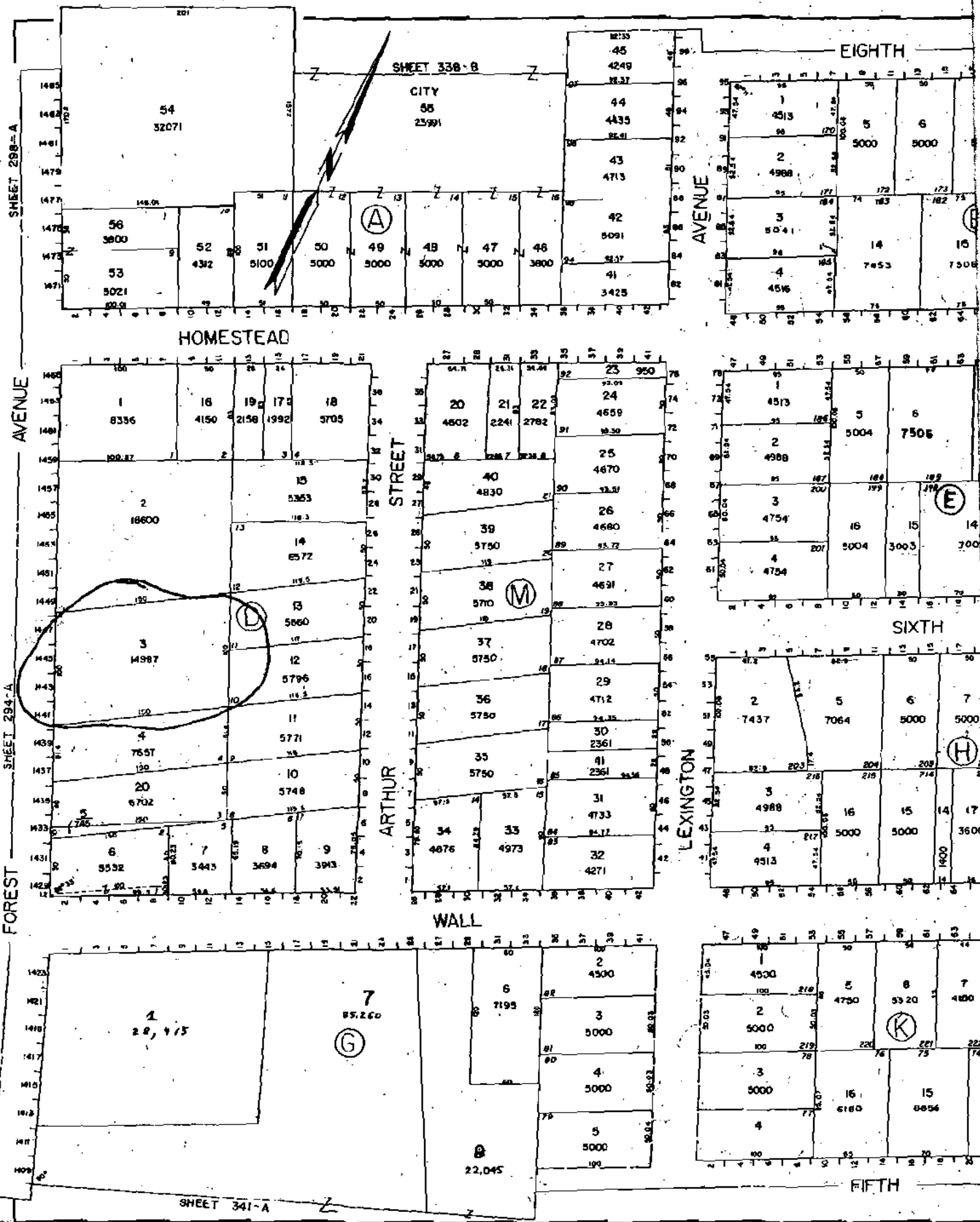
←20'→



150'

↑
22'
↓

100' No exterior changes!



SHEET 298-A

SHEET 338-B

EIGHTH

AVENUE

HOMESTEAD

FOREST AVENUE

ARTHUR STREET

SHEET 294-A

ARTHUR STREET

LEXINGTON AVENUE

SIXTH

WALL STREET

FOREST AVENUE

SHEET 341-A

FIFTH

(A)

(D)

(M)

(E)

(H)

(G)

(K)

(B)

QUITCLAIM DEED WITH COVENANT
(Special Warranty Deed)

KNOW ALL MEN BY THESE PRESENTS, that Citibank, N.A., as Trustee, with a mailing address of 800 State Highway 121 Bypass, Lewisville, TX 75067, (GRANTOR), for consideration paid, the receipt of which is hereby acknowledged, does hereby give, grant, bargain, sell and convey unto Michael E. Mulkern, with a mailing address of 241 Elm St., Portland, ME 04106 (GRANTEE), his heirs and assigns forever, WITH QUITCLAIM COVENANT, that certain lot or parcel of land, with any buildings thereon, located at 1445 Forest Avenue, Portland, in the County of Cumberland, and State of Maine, as more fully described in Exhibit A attached hereto.

See Attached Exhibit A

Meaning and intending to convey the same premises conveyed to the within grantor by deed dated April 6, 2009, and recorded in the Cumberland County Registry of Deeds May 11, 2009 in Book 26876, Page 50.

IN WITNESS WHEREOF, the said Citibank, N.A., as Trustee has caused these presents to be signed and sealed this 24 day of SEPT, 2009.

WITNESS:



Citibank, N.A., as Trustee
By EMC Mortgage Corporation, as
Attorney-in-Fact

By: Susan Harber
Print Name: Susan Harber
Its: Assistant Vice President

State of TEXAS
County of DENTON

Personally appeared before me this 24 day of SEPT, 2009,
SUSAN HARBER, AVP of the above named EMC Mortgage Corporation, as
Attorney-in-Fact for Citibank, N.A., as Trustee, and acknowledged the foregoing to be his/her free
act and deed in said capacity.

Schakira F Hernandez
Notary Public
Print Name: Schakira F Hernandez
My Commission Expires: July 30, 2012



MAINE REAL ESTATE TAX PAID

EXHIBIT A

A CERTAIN LOT OR PARCEL OF LAND WITH THE BUILDINGS THEREON SITUATED ON FOREST AVENUE IN THE CITY OF PORTLAND, COUNTY OF CUMBERLAND AND STATE OF MAINE, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON POST SET IN THE GROUND ON THE NORTHEASTERLY SIDE OF FOREST AVENUE AT THE NORTHWESTERLY CORNER OF LOT NO. 4 ON PLAN OF LOTS MADE FOR ARTHUR S. WAGG, SAID PLAN BEING RECORDED IN CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 13, PAGE 73, SAID IRON POST BEING TWO HUNDRED ONE AND FOUR TENTHS (201.4) FEET, MORE OR LESS, ON FOREST AVENUE FROM THE INTERSECTION OF THE NORTHERLY SIDE OF WALL STREET WITH THE SAID SIDE OF FOREST AVENUE; THENCE RUNNING NORTHEASTERLY ALONG THE NORTHERLY SIDE OF SAID LOT NO. 4 ONE HUNDRED FIFTY (150) FEET, MORE OR LESS, TO THE SOUTHWESTERLY CORNER OF LOT NO. 10 ON SAID PLAN; THENCE NORTHWESTERLY ALONG LOTS NO. 10 AND 11 ONE HUNDRED (100) FEET, MORE OR LESS; THENCE SOUTHWESTERLY ONE HUNDRED FIFTY (150) FEET, MORE OR LESS, TO FOREST AVENUE AT A POINT ONE HUNDRED (100) FEET NORTHWESTERLY FROM THE POINT OF BEGINNING; THENCE SOUTHEASTERLY ALONG SAID FOREST AVENUE ONE HUNDRED (100) FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

BEING THE SAME PREMISES CONVEYED TO CITIBANK, N.A., AS TRUSTEE BY DEED OF CITIBANK, N.A., AS TRUSTEE DATED APRIL 6, 2009 AND RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN BOOK 26878, PAGE 50.

PURCHASE AND SALE AGREEMENT

September 8, 2009

Effective Date
Effective Date is defined in Paragraph 24 of this Agreement.

1. PARTIES: This Agreement is made between Michael E. Mulkern ("Buyer") and _____ ("Seller").

2. DESCRIPTION: Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy (all part of; If "part of" see para. 26 for explanation) the property situated in municipality of Portland, County of Cumberland, State of Maine, located at 1445 Forest Avenue and described in deed(s) recorded at said County's Registry of Deeds Book(s) 24668, Page(s) 350.

3. FIXTURES: The Buyer and Seller agree that all fixtures, including but not limited to existing storm and screen windows, shades and/or blinds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood stoves, sump pump and electrical fixtures are included with the sale except for the following: n/a

Seller represents that all mechanical components of fixtures will be operational at the time of closing except: n/a

4. PERSONAL PROPERTY: The following items of personal property as viewed on n/a are included with the sale at no additional cost, in "as is" condition with no warranties: n/a

5. PURCHASE PRICE: For such Deed and conveyance Buyer agrees to pay the total purchase price of \$ MM \$155,000. Buyer has delivered; or will deliver to the Agency within n/a days of the date of this offer, a deposit of earnest money in the amount \$ 1,000.00. If said deposit is to be delivered after the submission of this offer and is not delivered by the above deadline, this offer shall be void and any attempted acceptance of this offer in reliance on the deposit being delivered will not result in a binding contract. Buyer agrees that an additional deposit of earnest money in the amount of \$ n/a will be delivered n/a. Failure by Buyer to deliver this additional deposit in compliance with the above terms shall constitute a default under this Agreement. The remainder of the purchase price shall be paid by a certified or cashier's check upon delivery of the Deed.

This Purchase and Sale Agreement is subject to the following conditions:

6. EARNEST MONEY/ACCEPTANCE: Agency 1 Real Estate ("Agency") shall hold said earnest money and act as escrow agent until closing; this offer shall be valid until September 10, 2009 (date) 5 AM PM; and, in the event of non-acceptance, this earnest money shall be returned promptly to Buyer. In the event that the Agency is made a party to any lawsuit by virtue of acting as escrow agent, Agency shall be entitled to recover reasonable attorney's fees and costs which shall be assessed as court costs in favor of the prevailing party.

7. TITLE AND CLOSING: A deed, conveying good and merchantable title in accordance with the Standards of Title adopted by the Maine Bar Association shall be delivered to Buyer and this transaction shall be closed and Buyer shall pay the balance due and execute all necessary papers on 10 days from off. date (Closing date) or before, if agreed in writing by both parties. If Seller is unable to convey in accordance with the provisions of this paragraph, then Seller shall have a reasonable time period, not to exceed 30 calendar days, from the time Seller is notified of the defect, unless otherwise agreed to in writing by both Buyer and Seller, to remedy the title. Seller hereby agrees to make a good-faith effort to cure any title defect during such period. If, at the later of the closing date set forth above or the expiration of such reasonable time period, Seller is unable to remedy the title, Buyer may close and accept the deed with the title defect or this Agreement shall become null and void in which case the parties shall be relieved of any further obligations hereunder and any earnest money shall be returned to the Buyer.

8. DEED: The property shall be conveyed by a Quit Claim deed, and shall be free and clear of all encumbrances except covenants, conditions, easements and restrictions of record which do not materially and adversely affect the continued current use of the property.

9. POSSESSION, OCCUPANCY, AND CONDITION: Unless otherwise agreed in writing, possession and occupancy of premises, free of tenants and occupants, shall be given to Buyer immediately at closing. Said premises shall then be broom clean, free of all possessions and debris, and in substantially the same condition as at present, excepting reasonable use and wear. Buyer shall have the right to view the property within 24 hours prior to closing.





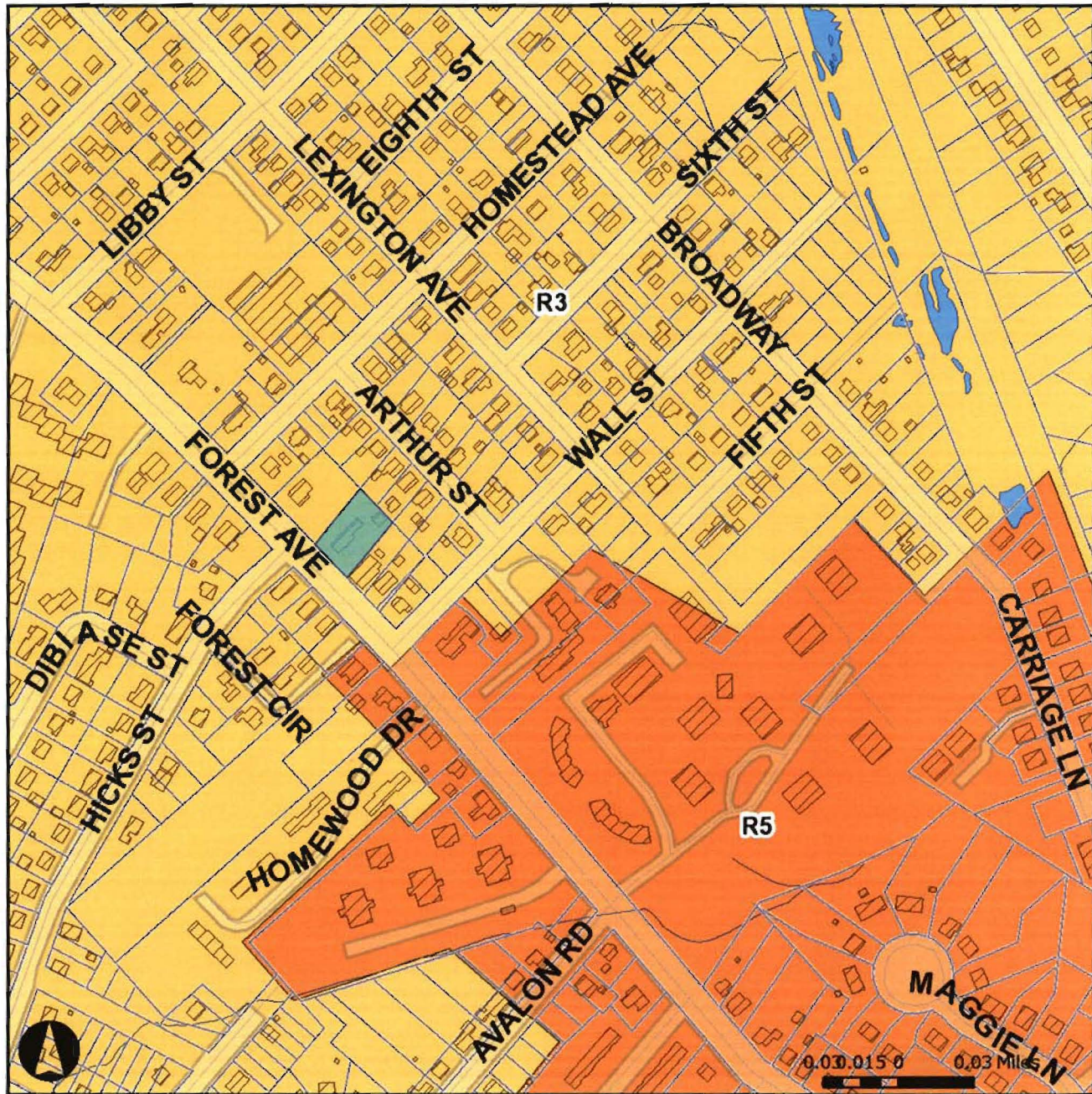








Map



Parcels	Stream Overlay Zone	Zoning (continued)	Zoning (continued)
Interstate	Stream_protection	R2 Residential	C25
Streets	Island Zoning	R3 Residential	C26
Buildings	C43	R4 Residential	C27
Building	I-B	R5 Residential	C28
Out Building	I-TS	R6 Residential	C29
	I-R1	ROS Recreation Open	C30
	I-R2	Space	C31



PORTLAND MAINE

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*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 *AM*
SUBJECT: 1445 FOREST AVENUE, 340 D003, R-3
DATE: AUGUST 18, 2010

The purpose of this memo is to give background history about this property.

When the current zoning ordinance went into effect in June of 1957, the legal use of this property was two dwelling units. Our records dating back to 1946, give the use of the property as two dwelling units. Since the use of the property was a two family dwelling in 1957, the use is legally nonconforming. After the ordinance went into effect in 1957, a two family home was not a permitted use in the R-3 residential zone. If the applicant had come into our office and checked our records before he purchased the property in October 2009, he would have discovered that the legal use was a two family dwelling.

In February of 2010, Jonathan Rioux, code enforcement officer, discovered that there were four dwelling units in the building (Attachment A). He wrote a letter dated February 9, 2010 to the owner, Michael Mulkern (Attachment B). In the letter he pointed out that the building had been posted against occupancy on December 26, 2008 (Attachment C). The letter went on to outline what needed to be done to bring the property into compliance. On May 27, 2010 the same letter was delivered to Michael Mulkern at the building inspections office (Attachment D).

On June 14, 2010 our office received a complaint that the garage was also being rented as a dwelling unit. This was confirmed by our staff at a later inspection.

At an inspection on June 25, 2010, code enforcement officers Brian LaFlamme and Jonathan Rioux discovered new electrical and plumbing violations (Attachment E).

On June 28, 2010, Penny St. Louis Littell, the Director of Planning, sent a letter to the residents of 1445 Forest Avenue stating that if the violations were not corrected by July 2, 2010, the building would be vacated. She stated that the three illegal units (one unit first floor unit, third floor unit and garage unit) be vacated by July 2, 2010. (Attachment F)

On June 29, 2010 code enforcement officers Tammy Munson and Brian LaFlamme met with Captain Gautreau of the Fire Department and an electrician at the property. They came up with a list of corrections that needed to be addressed. (Attachment G)

At an inspection on July 7, 2010, code enforcement officers, Brian LaFlamme and Nicholas Adams, verified that the electrical violations had been corrected and that there were only two tenants in the building. (Attachment H)

At the most recent inspection on July 9, 2010, code enforcement officers Brian LaFlamme and Tammy Munson found that the plumbing violations had not been completely corrected, and they could not access the third floor unit to see if the plumbing had been permanently capped. (Attachment I)

The City has been working with the owner Michael Mulkern since February of 2010 to bring the property into compliance and the process is still not complete.

Attachment A

From: Jonathan Rioux
To: Machado, Ann
CC: Littell, Penny
Date: 2/2/2010 3:15 PM
Subject: RE: 1445 Forest Ave

CBL: 340 D003001
Owner: MULKERN MICHAEL E

Ann,

This is currently being used as a four (4) unit; the new owner bought the property under foreclosure and created two additional units. One unit's four foot egress door(s) will by no means met the bld. Code... Could he convert to a three (3) unit? Otherwise, the letter is going state that it must be returned to a two unit w/ signs-offs from the trades. Thanks, JGR.

Jon Rioux,
Code Enforcement Officer

City of Portland
Planning and Urban Development Department
Inspection Services Division
389 Congress St. Rm 315
Portland, ME 04101
Office: 207.874.8702
Support Staff: 207.874.8703
jrioux@portlandmaine.gov



PORTLAND MAINE

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Director of Planning and Urban Development
Penny St. Louis Littell

February 9, 2010

Attachment B

MULKERN MICHAEL E
1445 FOREST AVE
PORTLAND, ME 04103

CBL: 340 D003001
Located at 1445 FOREST AVE

Certified Mail: 70090820000141892294

Notice of Violation/ Posting Notice

Dear Michael E Mulkern:

An evaluation of your property on 02/02/10 located at 1445 Forest Ave. revealed that the building is being used as four (4) unit apartment with two (2) illegal units. City records indicate the legal use of the property as a two (2) family home. This structure fails to comply with § 6-120 (d) of the Housing Code of the City of Portland.

There has been a change of use without benefit of proper permits or approvals as required under § 14-463 of the Zoning Ordinance, and § 6-107 of the Housing Code. Furthermore, City Inspectors posted 1445 Forest Ave against occupancy on 12/24/08. You have since purchased the property, framed walls, doors, and installed plumbing for kitchens and bathrooms, creating two (2) illegal dwelling units. Our City Zoning Ordinance § 14-87 & 14-88 for the R-3 Zone does not permit a four (4) family dwelling unit as a conditional, and or permitted use.

These violations require immediate correction. They are as follows:

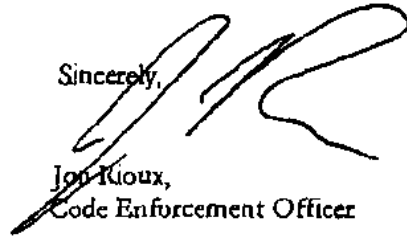
1. The use (two (2) illegal dwelling units) must be terminated and reverted back to the original legal use (Two Family Residence), within fourteen (14) days
2. Dismantle the un-permitted (closed-in) walls/ doors, and kitchens used to create illegal units within the dwelling, within fourteen (14) days.
3. Remove all additional wiring, plumbing, and or mechanic work completed without benefit of a building permit, within fourteen (14) days.
 - a. This work must be completed by an Electrical Licensed for two (2) family residential units, and Master Plumber.

Based on that list, and pursuant to § 14-89 (Prohibited Uses) and § 6-120.(d), this office declares the two (2) illegal dwelling unit are unfit for human habitation. This is a notice of violation pursuant to § 14-57 of the Land Use Ordinance; the referenced violations shall be corrected within fourteen (14) days of the date of this notice.

Failure to comply will result in further enforcement action taken by the City of Portland Corporation Counsel. This constitutes an appealable decision pursuant to § 121 of the Building Code and § 14-472 of the Zoning Ordinance.

Please feel free to contact me at 207.874.8702 if you wish to discuss the matter or have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'JR', written over the typed name 'Jon Rioux'.

Jon Rioux,
Code Enforcement Officer

CC: Penny St. Louis Littell, Dir. of Planning and Urban Development, & Ann Machado, Zoning Specialist



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*Director of Planning and Urban Development
Penny St. Louis Little*

*Inspection Services, Director
Tammy M. Munson*

Attachment C

December 26, 2008

Thomas A. Derrig
11 Main Street Suite 7-232
Westbrook, Maine 04092

CBL: 340-D-003001
Location: 1445 FOREST AVE

Certified Mail Receipt # 7003 3110 0002 6063 7131

Dear Mr. Derrig:

An inspection of the above referenced property on 12/24/2008 revealed that the structure fails to comply with Section 6-120.1 & 6-120.2 of the Housing Code of the City of Portland.

The following is a list of violations:

- 6-120.2 – second floor – inadequate heating supply – boiler not functioning
- 6-120.2 – second floor – damaged heating supply pipes due to freezing
- 6-120.1 – first floor – severe water damage to ceilings & floors due to frozen heat pipes
- 6-120.2 – first & second floor – excessive wiring and light fixtures exposed to water damage – a licensed master electrician must evaluate all wiring in the building prior to re-occupancy.

Based on this list, and pursuant to Section 6-120.3, this office declares the structure unfit for human habitation. The structure must remain completely vacated and must be secured from vandalism.

Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in Section 1-15 of the Code in Title 30-A of M.R.S.A ss 4452. Please feel free to contact me at 207-874-8706 if you have any questions or would like to discuss this matter further.

Sincerely,

Tammy M. Munson
Director of Inspections

cc. EMC Mortgage Property Preservation Department



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Director of Planning and Urban Development
Penny St. Louis Littell

AMENDED: MAY 27, 2010

Attachment D

COPY

MULKERN MICHAEL E
1445 FOREST AVE
PORTLAND, ME 04103

CBL: 340 D003001
Located at 1445 FOREST AVE

Hand Delivered

Notice of Violation/ Posting Notice

Dear Michael E Mulkern:

An evaluation of your property on 02/02/10 located at 1445 Forest Ave. revealed that the building is being used as four (4) unit apartment with two (2) illegal units. City records indicate the legal use of the property as a two (2) family home. This structure fails to comply with § 6-120 (d) of the Housing Code of the City of Portland.

There has been a change of use without benefit of proper permits or approvals as required under § 14-463 of the Zoning Ordinance, and § 6-107 of the Housing Code. Furthermore, City Inspectors posted 1445 Forest Ave against occupancy on 12/24/08. You have since purchased the property, framed walls, doors, and installed plumbing for kitchens and bathrooms, creating two (2) illegal dwelling units. Our City Zoning Ordinance § 14-87 & 14-88 for the R-3 Zone does not permit a four (4) family dwelling unit as a conditional, and or permitted use.

These violations require immediate correction. They are as follows:

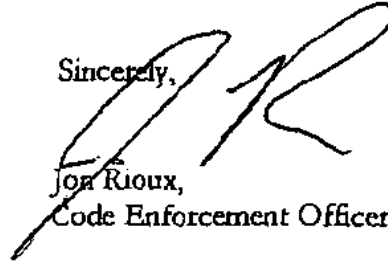
1. The use (two (2) illegal dwelling units) must be terminated and reverted back to the original legal use (Two Family Residence), within twenty (20) days
2. Dismantle the un-permitted (closed-in) walls/ doors, and kitchens used to create illegal units within the dwelling, within twenty (20) days.
3. Remove all additional wiring, plumbing, and or mechanic work completed without benefit of a building permit, within twenty (20) days.
 - a. This work must be completed by an Electrician Licensed for two (2) family residential units, and Master Plumber.

Based on that list, and pursuant to § 14-89 (Prohibited Uses) and § 6-120.(d), this office declares the two (2) illegal dwelling unit are unfit for human habitation. This is a notice of violation pursuant to § 14-57 of the Land Use Ordinance; the referenced violations shall be corrected within twenty (20) days of the date of this notice.

Failure to comply will result in further enforcement action taken by the City of Portland Corporation Counsel. This constitutes an appealable decision pursuant to § 121 of the Building Code and § 14-472 of the Zoning Ordinance.

Please feel free to contact me at 207.874.8702 if you wish to discuss the matter or have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'JR' with a stylized flourish.

Jon Rioux,
Code Enforcement Officer

CC: Penny St. Louis Littell, Dir. of Planning and Urban Development, & Ann Machado, Zoning Specialist

Attachment E

	<input type="button" value="View Permit"/>	<input type="button" value="Delete"/>	<input type="button" value="Save"/>	<input type="button" value="Close"/>	<input type="button" value="Print Invoice"/>
<input type="text" value="06/25/2010"/>	<input type="text"/>				
<input type="text" value="Complaint"/>	<input type="text" value="Jon Rioux"/>	<input type="button" value="OK"/>	<input type="text" value="\$0.00"/>	<input type="text" value="No"/>	
<input type="text" value="Non Compliance"/>	<input type="text" value="Keith Gautreau"/>	<input type="button" value="OK"/>			
<input type="text" value="15430"/>	<input type="text" value="Brian LaFlamme"/>	<input type="button" value="OK"/>	<input type="text" value="21"/>	<input type="text" value="No"/>	
<input type="text" value="340 D003001"/>	<input type="text" value="1445"/>	<input type="text" value="FOREST AVE"/>	<input type="text" value="5"/>		

	<input type="button" value="Add Outcome"/>	<input type="button" value="New Inspection"/>
<input type="text" value="0"/>	<input type="text"/>	<input type="button" value="Violation This Inspection"/>
<p>06-25-10 Partial Re-Inspection: walk-through of basement and 2nd fl. Unit. Same concerns addressed in NOV, however added basement violations, i.e. Electrical wiring and plumbing; electrical service needs to be repaired, and or replaced; placed POSTING NOTICE on dwelling; Penny Littell was advised. JGR.</p>		<input type="button" value="Violations All Inspections"/>
<input type="text" value="jrioux"/>	<input type="text"/>	
<input type="text" value="07/12/2010"/>	<input type="text"/>	

<input type="text" value="jrioux"/>	<input type="text" value="07/12/2010"/>	<input type="text" value="jrioux"/>	<input type="text" value="07/12/2010"/>
<input type="text" value="11:44 am"/>	<input type="text" value="11:44 am"/>		

Attachment E

	<input type="button" value="View Permit"/>	<input type="button" value="Delete"/>	<input type="button" value="Save"/>	<input type="button" value="Close"/>	<input type="button" value="Print Invoice"/>
06/25/2010	6:00 AM	Brian LaFlamme	<input checked="" type="checkbox"/>	\$0.00	Yes
Complaint					
Electrical Only					
15A30				21	No
340 D003001	1445	FOREST AVE	5		

	<input type="button" value="Add Outcome"/>	<input type="button" value="New Inspection"/>
0		Violation
Saw apt 2, noticed zip cords all over the apt, insufficient electric outlets, noticed only 2 electrical panels for what appeared to be 5 units, possibly 6. Noticed outer insulation severely damaged on service drop wire. In basement noticed new romax wire used in with existing wire, knob and tube wiring still in use possibly spliced into..... BKL 8/25/2010		This Inspection
blafamme		Violations
06/25/2010		All Inspections

Idobson	08/23/2010	Idobson	08/23/2010
	3:14 pm		3:14 pm



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Planning & Urban Development Department
Penny St. Louis Littell, Director

Attachment F

June 28, 2010

To the residents of 1445 Forest Ave:

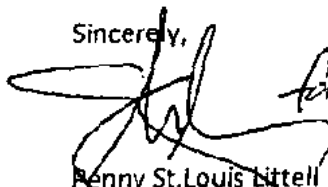
This letter is to inform you of serious building code and life safety code violations documented at the property at 1445 Forest Avenue.

The City is working with the property owner to bring the building into compliance by July 2, 2010. If the serious violations have not been corrected at that time, you will be required to vacate the premises pending code compliance.

Of additional concern is the presence of three illegal units, namely one unit on floor 1, the 3rd floor unit and the garage unit. These units must be vacated by Friday, July 2, 2010.

Given this information, you should plan accordingly. Your landlord should assist you in any necessary relocation efforts.

Sincerely,


for Penny St. Louis Littell
Penny St. Louis Littell
Director of Planning
City of Portland

Cc: Michael Mulkern

**City of Portland, Maine
Inspections Division
Inspection Schedule**

Appointment Date Between 1/1/2007 And 7/6/2010

Dist. #	Sch. Date:	ParcelNo:	Appl. Type	Schedule Type	Appl #:	Location
Fire Insp. Contact:			Inspector	Comments		
5	06/29/2010	340 D0Q3001	Building Permit	Site Meeting		1445 FOREST AVE
	MULKERN MICHAEL E		Tammy Munson Brian LaFlamme	Meeting with Capt. Gautreau and electrician 9:00am - The following are the items that need to be corrected. 1. All electrical systems in the building must be made safe, code compliant, and installed in a workmanship manner. An electrical permit shall be obtained for any new electrical work. 2. All unsafe wiring will be repaired or replaced. 3. Altered knob and tube wiring will be discontinued and any junction points will be eliminated. 4. A letter from your licensed electrician shall be submitted to us by Friday, July 2, 2010, stating the building is in a safe condition and is code compliant. 5. All illegally installed plumbing will be reviewed and certified by your licensed plumber. As discussed, your plumber will verify all fixtures are vented, trapped, and installed properly. A plumbing permit will be obtained for all altered or newly plumbing fixtures and any piping. 6. Heating units serving the legal 1st floor dwelling unit and the legal 2nd floor dwelling unit shall be reviewed and corrected by your licensed HVAC contractor and certified as safe and code complaint. Permits must be obtained for all of these units. All other heating units must be removed. 7. All kitchen sinks and cooking appliances in the illegal units (1st floor rear, 3rd floor, and garage) must be removed. The pipes shall be permanently capped below the floor level. 8. As discussed, these corrective measures only assure you occupancy of floor 1 and floor 2 as the only permitted dwelling units in the building. There will be a plan of action for the building addressing all other code violations. The above mentioned only allows you to continue to occupy those two units. It does not imply full code compliance of the entire structure.		

Total Listed: 10

View Permit

Delete

Save

Close

Print Invoice

07/07/2010

6:00 AM

Electrical Permit

Brian LaFlamme

BK

\$0.00

Yes

Electrical Only

20104430

21

No

340 D003001

1445

FOREST AVE

5

Add Outcome

0

Went out there with Nick, met with Mike and Jeff and satisfied that the electrical issues have been corrected and service to be upgraded tomorrow. Electrician(Jeff) will fax a letter outlining all the items corrected and certifying that the electrical is safe and up to code. The vent stacks will be extended above roof line and water lines on 3rd floor to be capped permanently and he will notify us when completed. As of this inspection there are only 2 tenants and the other tenants have vacated. BKL 7/7/2010

blafamme

07/07/2010

New Inspection

Violation
This Inspection

Violations
All Inspections

ldobson

07/07/2010

ldobson

07/07/2010

9:39 am

9:39 am

Attachment H.

340-D-3

Attachment H

CONCERNING ELECTRICAL WORK AT 1445 FOREST AVE:

ISSUES ADDRESSED

1. All knob and tube wiring in basement removed and circuits re-fed with connections made in junction boxes.
2. All outlets on first, second, and third floor checked for proper grounding and corrected where necessary.
3. All circuits checked for proper fusing.
4. Upgraded service to 3 meters and 3 panels to provide for a house meter. Grounding to water main to be brought up to current code at that time.
5. Second floor outlets were checked for proper grounding, outlets replaced where needed.
6. Second floor--checked circuits for proper fusing Installed 2 additional small appliance circuits to separate load.
7. Separated and transferred circuits for washer, dryer, basement lights, hall lights, and garage sub panel to the house panel.
8. Install smoke detector in second floor bedroom.

All safety and code issues have been addressed except where noted.

Jeffrey P. Williams

July 2, 2010

(Attachment I)

07/09/2010	9:30 AM	Brian LaFlamme	\$0.00	Yes
Complaint		Tammy Munson		
Inspection			21	No
15430				
340 D003001	1446	FOREST AVE	6	
Add Outcome				
0				
Vent stacks not completed.....was not able to access 3rd floor to see if plumbing was capped permanently....2nd floor unit smokes in working order and circuits separated and added to lighten load. BKL 7/9/2010				
blafamme	07/09/2010			
labobson	07/08/2010	labobson	07/08/2010	
	2:50 pm		2:51 pm	

New Inspection
Violation This Inspection
Violations All Inspections



PORTLAND MAINE

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*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 *ADM*

SUBJECT: 1445 FOREST AVENUE, 340 D003, R-3

DATE: JULY 29, 2010

The applicant is seeking a variance to allow for a multi-family dwelling in the R-3 Zone, which is not a permitted use in the zone. The applicant seeks to add one unit to an existing two-family dwelling to make a multi-family dwelling. The purpose of this memo is to address this issue.

Section 14-473(c)(4)(a) of the City's Land Use Code prohibits a variance from being granted in a low density residential district (IR-1, IR-2, IR-3, R-1, R-2, R-3) for a use that is allowed in a medium or high density residential district (R-4, R-5, R-6), but not allowed in a low density zone. The applicant's building is located in the R-3 zone which is defined as a low density residential district in this section. Multi-family dwellings are not permitted in the R-3 zone, but they are allowed in the medium and high density R-4, R-5 and R-6 residential zones. The applicant is challenging the interpretation of section 14-473(c)(4)(a), arguing that they should be permitted to apply for a variance.

The reason that this specific use variance is prohibited is clear when one looks at the purpose that is given at the beginning of each residential zone (see attachments A-F). The R-1, R-2 and R-3 zones are all characterized by single family homes on individual lots. The R-4 zone allows for "the continued mix of single family, two family and low-rise multifamily dwellings". The R-5 zone is "characterized by single family and low-intensity multifamily dwellings on individual lots". The R-6 zone is "for housing characterized primarily by multifamily dwellings at a high density". Those who live in the lower density districts like the R-3 zone do so because they desire a neighborhood of individual single family homes. Section 14-473(c)(4)(a) protects the single family character of the lower density zones. The applicant is seeking to have a multi-family dwelling in a low-density residential zone and that is simply not permitted.

City of Portland
Code of Ordinances
Sec. 14-65

Land Use
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Rev.7-23-10

***Editor's note--**Ord. No. 532-84, adopted May 7, 1984, repealed Div. 2, s; \$ 14-66--14-69, and enacted a new Div. 2, §§ 14-66--14-71. The division was formerly derived from Code 1968, § 602-2.2A--D; Ord. No. 499-74, § 2, adopted Aug. 19, 1974; Ord. No. 610-82, § 1, adopted July 7, 1982; and Ord. No. 88-83, §§ 1, 2, adopted Aug. 3, 1983.

Sec. 14-66. Purpose.

The purpose of the R-1 residential zone is:

To provide for lower density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.

(Ord. No. 532-84, 5-7-84)

Sec. 14-67. Permitted uses.

The following uses are permitted in the R-1 residential zone:

(a) **Residential:**

1. Single-family detached dwellings.
2. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
3. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
4. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District and until May 1, 1985, on the islands, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated

City of Portland
Code of Ordinances
Sec. 14-71

Land Use
Chapter 14
Rev. 7-23-10

(b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a 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 for a period not exceeding thirty (30) days.

(Ord. No. 532-84, 5-7-84; Ord. No. 15-92, § 5, 6-15-92)

Sec. 14-72. Reserved.
Sec. 14-73. Reserved.
Sec. 14-74. Reserved.
Sec. 14-75. Reserved.

DIVISION 3. R-2 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 533-54, adopted May 7, 1984, repealed Div. 3, §§ 14-76--14-79, and enacted a new Div. 3, §§ 14-76--14-81. The division was formerly derived from Code 1968, § 602.3.A--D; Ord. No. 499-74, § 2, adopted Aug. 19, 1974; Ord. No. 610-82, § 1, adopted July 7, 1982; and Ord. No. 89-83, §§ 1, 2, adopted Aug. 3, 1983.

Sec. 14-76. Purpose.

The purpose of the R-2 residential zone is:

To provide for low-density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.

(Ord. No. 533-84, 5-7-84)

Sec. 14-77. Permitted uses.

The following uses are permitted in the R-2 residential zone:

(a) *Residential:*

1. Single-family detached dwellings.
2. Handicapped family unit, as defined in section 14-47 (definitions) of this article for handicapped

City of Portland
Code of Ordinances
Sec. 14-81

Land Use
Chapter 14
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Other requirements are as follows:

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a 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 for a period not exceeding thirty (30) days.
- (Ord. No. 533-84, 5-7-84; Ord. No. 15-92, § 6, 6-15-92)

- Sec. 14-82. Reserved.**
- Sec. 14-83. Reserved.**
- Sec. 14-84. Reserved.**
- Sec. 14-85. Reserved.**

DIVISION 4. R-3 RESIDENTIAL ZONE*

 *Editor's note--Ord. No. 534-84, adopted May 7, 1984, repealed Div. 4, §§ 14-87--14-90, and enacted a new Div. 4, §§ 14-86--14-91. Formerly, Div. 4 was derived from Code 1968, § 602.4.A--D, and the following ordinances: Ord. No. 49-74, 372-75, 406-75, 34-76, 145-79, 145-81, 303-81, 90-83, and 499-74.

Sec. 14-86. Purpose.

The purpose of the R-3 residential zone is:

To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.

(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 1, 7-19-88)

 *Editor's note--Ord. No. 81-88, § 1, adopted July 19, 1988, amended § 14-86 to read as herein set out. See also the editor's note to Art. III of this chapter

Sec. 14-101. Purpose.

The purpose of the R-4 residential zone is:

- (a) To preserve the unique character of the Western Promenade area of the city by controlling residential conversions and by allowing the continued mix of single-family, two-family, and low-rise multifamily dwellings and other compatible development at medium densities.

(Ord. No. 535-84, 5-7-84)

Sec. 14-102. Permitted uses.

The following uses are permitted in the R-4 residential zone:

(a) *Residential:*

1. Single-family detached dwellings;
2. New construction of two-family dwellings;
3. Reserved;
4. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff;
5. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District;
6. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full

City of Portland
Code of Ordinances
Sec. 14-106

Land Use
Chapter 14
Rev. 7-23-10

[Other requirements are as follows:]

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a 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 for a period not exceeding thirty (30) days.

(Ord. No. 535-84, 5-7-84; Ord. No. 15-92, § 8, 6-15-92)

Sec. 14-107. Reserved.
Sec. 14-108. Reserved.
Sec. 14-109. Reserved.
Sec. 14-110. Reserved.
Sec. 14-111. Reserved.
Sec. 14-112. Reserved.
Sec. 14-113. Reserved.
Sec. 14-114. Reserved.
Sec. 14-115. Reserved.

DIVISION 6. R-5 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 536-84, adopted May 7, 1984, repealed former Div. 6, §§ 14-116--14-119, and enacted in lieu thereof a new Div. 7, §§ 14-116--14-121. However, in order to avoid duplication of subsequent division numbers and in consultation with the city, the provisions have been retained as Div. 6. Sections 14-116--14-119 were formerly derived from Code 1968, § 602.5.A--D, and Ord. Nos. 207-72, 499-74, 193-82, 92-83, 422-83.

Sec. 14-116. Purpose.

The purpose of the R-5 residential zone is:

To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density

neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
(Ord. No. 536-84, 5-7-84; Ord. No. 83-88, § 1, 7-19-88)

*Editor's note--Ord. No. 83-88, § 1, adopted July 19, 1988, amended § 14-116 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-117. Permitted uses.

The following uses are permitted in the R-5 residential zone:

(a) *Residential:*

1. Single- and two-family dwellings; except that development of two (2) or more two-family dwellings on contiguous lots within any two-year period shall be subject to review as specified under the provisions of 14-117(a)2e if such lots were under single ownership at any time within the two-year period immediately prior to development of the first such lot. No building reviewed as a two-family dwelling in accordance with section 14-524 or not reviewed under article V shall be altered or enlarged to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with section 14-524 which is altered or enlarged to include any additional dwelling unit after this five-year period shall be reviewed as a major development pursuant to article V of this chapter.
2. Multiplex development with three (3) or more horizontally or vertically attached dwelling units or a series of such attached dwelling units and the construction of at least one (1) building on a parcel of less than two (2) acres, provided that:
 - a. The land area requirement for a multiplex shall be six thousand (6,000) square feet of

City of Portland
Code of Ordinances
Sec. 14-134

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Chapter 14
Rev. 7-23-10

order to avoid duplication of division numbers and in consultation with the city,
the provision has been included as Div. 7.

Sec. 14-135. Purpose.

The purpose of the R-6 residential zone is:

(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.

(b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

(Ord. No. 538-84, 5-7-84; Ord. No. 78-03/04, 10-20-03)

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 residential zone:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section 14-524 shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with section 14-524 or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a major development pursuant to article V of this chapter.
2. Multifamily dwellings, provided that any alteration of a structure in residential use on December 2, 1987:
 - a. Shall not result in the creation of any



City of Portland Zoning Board of Appeals

August 5, 2010

Michael Mulkern
241 Elm Street
South Portland, ME 04106

Dear Mr. Mulkern,

Your Interpretation and Variance Appeals have been scheduled to be heard before the Zoning Board of Appeals on **Thursday, August 19, 2010 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 packets with you to the meeting to answer any questions the Board may have.

I have enclosed an agenda with your appeals highlighted, as well as a handout outlining the meeting process for the Zoning Board of Appeals.

I also have enclosed the bill for the legal ad, the notices for the appeal and a processing fee. 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

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
	ACETO LOUIS J JR TD VN VET & JANE S ACETO JTS	80 DIBIASE ST PORTLAND, ME 04103	80 DIBIASE ST	1
	ALBANO JAMES D & DYAN E ALBANO JTS	11 ARTHUR ST PORTLAND, ME 04103	11 ARTHUR ST	1
	ALBORANO JOSEPH W VN VET & BARBARA A ALBORANO JTS	28 ARTHUR ST PORTLAND, ME 04103	28 ARTHUR ST	1
	ALLEN NATALIE M	1414 FOREST AVE # 11 PORTLAND, ME 04103	1414 FOREST AVE UNIT 11	1
	ANDERSON WALTER D & BLANCHE E COTTON-ANDERSON	18 ARTHUR ST PORTLAND, ME 04103	18 ARTHUR ST	1
	ASALI ALBERT P JR & DEBORAH ASALI JTS	1491 FOREST AVE PORTLAND, ME 04103	1491 FOREST AVE	1
	AXELSON GINA M & ANTHONY J LOMBARDO JTS	84 DIBIASE ST PORTLAND, ME 04103	84 DIBIASE ST	1
	BOGNOT CHRISTINA L	1414 FOREST AVE # 8 PORTLAND, ME 04103	1414 FOREST AVE UNIT 08	1
	BOWIE ERNEST L JR & BEVERLY C OR SURV	41 HOMESTEAD AVE PORTLAND, ME 04103	41 HOMESTEAD AVE	1
	BOWMAN ANDREW P	1483 FOREST AVE PORTLAND, ME 04103	1483 FOREST AVE	1
	BREWER LAURA J	18 HOMESTEAD AVE PORTLAND, ME 04103	18 HOMESTEAD AVE	1
	BRIDGE JANE A	36709 N 25TH ST CAVE VREEK, AZ 85331	1428 FOREST AVE	1
	CHASE MICHAEL L & HILARY K JOHNSTON JTS	1448 FOREST AVE PORTLAND, ME 04103	1448 FOREST AVE	2
	CHOM HOUSING LIMITED PARTNERSHIP	707 SABLE OAKS DR SOUTH PORTLAND, ME 04106	25 WALL ST	8
	COLE ROXANE A	1414 FOREST AVE # 9 PORTLAND, ME 04103	1414 FOREST AVE UNIT 09	1
	COMMUNITY HOUSING OF MAINE	309 CUMBERLAND AVE STE 203 PORTLAND, ME 04101	29 WALL ST	2
	D'ARCANGELO JOANNE	1414 FOREST AVE # 12 PORTLAND, ME 04103	1414 FOREST AVE UNIT 12	1
	DELMONTE TERRY M JR & JENNIFER M JTS	24 ARTHUR ST PORTLAND, ME 04103	24 ARTHUR ST	1
	DIDONATO MATTHEW J	1414 FOREST AVE #13 PORTLAND, ME 04103	1414 FOREST AVE UNIT 13	1
	DOW MICHAEL J & MARY ELLEN JTS	1414 FOREST AVE PORTLAND, ME 04103	1414 FOREST AVE UNIT 15	1
	DUBAIL JENNIFER M	1414 FOREST AVE # 14 PORTLAND, ME 04103	1414 FOREST AVE UNIT 14	1
	ELDER ROBERT M JR	18 HOMESTEAD AVE PORTLAND, ME 04103	18 HOMESTEAD AVE	1
	FOGG PAMELA M & JEAN E FOGG JOAN C FOGG JTS	28 WALL ST PORTLAND, ME 04103	28 WALL ST	1
	FOREST GLEN LLC	PO BOX 1003 PORTLAND, ME 04104	1500 FOREST AVE	60
	GARY NANCY J	65 LEXINGTON AVE PORTLAND, ME 04103	65 LEXINGTON AVE	1
	GELINAS SYLVIA E	84 LEXINGTON AVE PORTLAND, ME 04103	84 LEXINGTON AVE	1

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	GOODWIN MARY-LYNE	1414 FOREST AVE # 2 PORTLAND, ME 04103	1414 FOREST AVE UNIT 02	1
	GREEN DEBORAH A	1414 FOREST AVE # 8 PORTLAND, ME 04103	1414 FOREST AVE UNIT 08	1
	GULIASHKA JULIA	90 LEXINGTON AVE PORTLAND, ME 04103	90 LEXINGTON AVE	1
	HALAVONICH BRIAN J & MONIQUE TETREAU LT JTS	50 HOMESTEAD AVE PORTLAND, ME 04103	50 HOMESTEAD AVE	1
	HANSON LINDA J	1414 FOREST AVE # 3 PORTLAND, ME 04103	1414 FOREST AVE UNIT 03	1
	HAWES SUSAN M & PHILIP F D HAWES JTS	3 FOREST CIR # 3 PORTLAND, ME 04103	3 FOREST CIR	3
	HIGGINS ALLAN S	PO BOX 10957 PORTLAND, ME 04104	1 FOREST CIR	1
	HO LEON	1440 FOREST AVE PORTLAND, ME 04103	1440 FOREST AVE	1
	HORIGAN ALICE H	1414 FOREST AVE APT 10 PORTLAND, ME 04103	1414 FOREST AVE UNIT 10	1
	JODRIE WILLIS J WWII VET & GWENDOLYN M JTS	4 SIXTH ST PORTLAND, ME 04103	4 SIXTH ST	1
	JOHNSON LLOYD F & PATRICIA J JTS	19 HICKS ST PORTLAND, ME 04103	19 HICKS ST	1
	JOHNSON MARK G & JUDY L JTS	50 WALL ST PORTLAND, ME 04103	50 WALL ST	1
	JONES STEVEN D & CHARLES H CAMP JTS	25 ARTHUR ST PORTLAND, ME 04103	25 ARTHUR ST	1
	KIM MI JUNG	1414 FOREST AVE # 4 PORTLAND, ME 04103	1414 FOREST AVE UNIT 04	1
	KNOWLES WILLIAM C	14 ARTHUR ST PORTLAND, ME 04103	14 ARTHUR ST	1
	LAWRENCE DESIREE A & THOMAS E ALLAN JTS	51 WALL ST PORTLAND, ME 04103	49 WALL ST	1
	LAZETTE AUDREY M	33 HICKS ST PORTLAND, ME 04103	33 HICKS ST	1
	LEE MARY ANNE & ALLEN J KING JTS	17 ARTHUR ST PORTLAND, ME 04103	17 ARTHUR ST	1
	LYDEN MARTIN H KW VET	P.O.BOX 10735 PORTLAND, ME 04104	33 HOMESTEAD AVE	1
	MACDONALD JODY L	1415 FOREST AVE PORTLAND, ME 04103	11 WALL ST	1
	MACDONALD JODY L & AMY M HAWKES JTS	1415 FOREST AVE PORTLAND, ME 04103	1415 FOREST AVE	1
	MACKEL ARTHUR D KW VET & LAURA E FOLSTER OR SURV	5 HOMESTEAD AVE PORTLAND, ME 04103	5 HOMESTEAD AVE	1
	MAGANTI TIRUMALA DEVI	1414 FOREST AVE #1 PORTLAND, ME 04103	1414 FOREST AVE UNIT 01	1
	MANDIC ZORAN & BILJANA MANDIC JTS	94 LEXINGTON AVE PORTLAND, ME 04103	94 LEXINGTON AVE	1
	MAROTTO ANNA M	90 DIBIASE ST PORTLAND, ME 04102	90 DIBIASE ST	1
	MCNEILL JOSEPH & NANCY D JTS	39 WALL ST PORTLAND, ME 04103	22 LEXINGTON AVE	0

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	MCNEILL JOSEPH & NANCY D JTS	39 WALL ST PORTLAND, ME 04103	39 WALL ST	1
	MERRILL SHERWOOD S KW VET & ETALS	73 DIBIASE ST PORTLAND, ME 04103	73 DIBIASE ST	1
	MESERVE JEAN M & JOHN A JTS	18 ARTHUR ST PORTLAND, ME 04103	18 ARTHUR ST	1
	MESSER CHARLES B	PO BOX 1980 PORTLAND, ME 04104	1470 FOREST AVE	1
	MESSER CHARLES B	PO BOX 1980 PORTLAND, ME 04104	1476 FOREST AVE	2
	MIHILL AMY	2 FOREST CIR PORTLAND, ME 04103	2 FOREST CIR	1
	MIKAILOV EMROUZ & ZUMRUD MIKAILOV JTS	1414 FOREST AVE # 7 PORTLAND, ME 04103	1414 FOREST AVE UNIT 07	1
	MOULTON GUY & PAMELA JTS	33 ARTHUR ST PORTLAND, ME 04103	33 ARTHUR ST	1
	MUISE ALLISON	1431 FOREST AVE PORTLAND, ME 04103	1431 FOREST AVE	1
	MULKERN MICHAEL E	1445 FOREST AVE PORTLAND, ME 04103	1445 FOREST AVE	2
	MYRTLE FOREST PROPERTIES	59 CURTIS RD PORTLAND, ME 04103	1402 FOREST AVE	2
	O'CONNOR JAMES M JR & LYNNE A O'CONNOR JTS	20 WALL ST PORTLAND, ME 04103	20 WALL ST	1
	PALERMO ANDREA M	6 HOMESTEAD AVE PORTLAND, ME 04103	6 HOMESTEAD AVE	1
	PALESTINI NICOLAS & ANGELINE M JTS	66 LEXINGTON AVE PORTLAND, ME 04103	66 LEXINGTON AVE	1
	PETERSON JONATHAN N & BETH M PETERSON JTS	11 HOMESTEAD AVE PORTLAND, ME 04103	11 HOMESTEAD AVE	1
	PHILBRICK GERALD C WWII VET & JOAN M JTS	31 WALL ST PORTLAND, ME 04103	31 WALL ST	1
	PHILLIPS DAVID R	1436 FOREST AVE PORTLAND, ME 04103	1436 FOREST AVE	1
	PICKFORD RICHARD S & SUSAN B JTS	1414 FOREST AVE # 18 PORTLAND, ME 04103	1414 FOREST AVE UNIT 18	1
	PVA LIMITED PARTNERSHIP	1115 WESTFORD ST LOWELL, MA 01851	1349 FOREST AVE	38
	RIDLON PAUL S & LORRAINE R	30 HICKS ST PORTLAND, ME 04103	30 HICKS ST	1
	ROSENGREN ELIZABETH C & COURY R MCGLINN JTS	20 ARTHUR ST PORTLAND, ME 04103	20 ARTHUR ST	1
	ROUSSEAU JOHN T	1455 FOREST AVE PORTLAND, ME 04103	1455 FOREST AVE	1
	RUSH SAMUEL & CATHERINE RUSH & CAROLINE	1410 FOREST AVE PORTLAND, ME 04103	1410 FOREST AVE	2
	RUSSELL FILOMENA M & ROBERT J RUSSELL SR JTS	27 WINSLOW RD GORHAM, ME 04038	1433 FOREST AVE	1
	RUSSELL ROBERT J SR & FILOMENA M RUSSELL JTS	27 WINSLOW RD GORHAM, ME 04038	1435 FOREST AVE	1
	SMITH CONSTANCE A	60 LEXINGTON AVE PORTLAND, ME 04103	60 LEXINGTON AVE	1

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	SMITH DEBRA ANN	1414 FOREST AVE # 5 PORTLAND, ME 04103	1414 FOREST AVE UNIT 05	1
	SMITH MARTHA B & ROBERT H	54 LEXINGTON AVE PORTLAND, ME 04103	54 LEXINGTON AVE	1
	SNOW JANE D & ROBERT E JR JTS	40 WALL ST PORTLAND, ME 04103	40 WALL ST	1
	SPIROUNIAS NICHOLAS WWII VET	4 FOREST CIR PORTLAND, ME 04103	4 FOREST CIR	1
	SPRING DONALD C	75 LEXINGTON AVE PORTLAND, ME 04103	75 LEXINGTON AVE	1
	STANISEWSKI KEITH & HALLIE C BIBEAU JTS	1460 FOREST AVE PORTLAND, ME 04103	1460 FOREST AVE	2
	TALBOT SHIRLEY WID KW VET	9 SIXTH ST PORTLAND, ME 04103	11 SIXTH ST	1
	TERRY JAMES T & LISE MB JTS	1418 FOREST AVE PORTLAND, ME 04103	1418 FOREST AVE	1
	TIGERMAN TIMOTHY J & LAUREN GRANESE JTS	1466 FOREST AVE PORTLAND, ME 04103	1466 FOREST AVE	2
	VERRILL ROBERT M & BARBARA M JTS	48 LEXINGTON AVE PORTLAND, ME 04103	48 LEXINGTON AVE	1
	WALSH SUSAN P	51 LEXINGTON AVE PORTLAND, ME 04103	51 LEXINGTON AVE	1
	WESTHOVEN DANIEL J & MEREDITH N ROY JTS	89 LEXINGTON AVE PORTLAND, ME 04103	89 LEXINGTON AVE	1
	WILLETT JEAN C & MICHAEL J JTS	13 HICKS ST PORTLAND, ME 04103	13 HICKS ST	1