



PORTLAND, MAINE

Strengthening a Remarkable City, Building a Community for Life
www.portlandmaine.gov

Planning and Urban Development
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

July 29, 2008

TO: Chairman Dore and Members of the Board of Appeals

RE: **WITHDRAWAL OF Request for Reconsideration/The Richmond
Company/Walgreen's/330 Allen Ave**

The City of Portland hereby withdraws its request for the Board's reconsideration of its interpretation appeal relative to the above captioned property.

Thank you for your attention in this matter.

Sincerely,

Penny St. Louis-Littell
Director of Planning and Urban Development

PL/tlb
Attachment

Cc: Chris Vaniotis, Esq.

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Peter Coyne
Philip Saucier-sec
Peter Thornton
Deborah Rutter
Jill E. Hunter
David Dore, chair
Gordan Smith

July 21, 2008

David Latulippe
The Richmond Company
23 Concord Street
Wilmington, MA 01887

RE: 330 Allen Avenue
CBL: 344 E008, 012, 036, 042 & 050
ZONE: B2

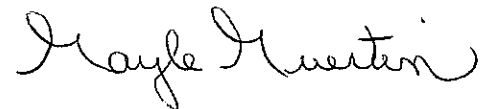
Dear Mr. Latulippe:

As you know, at its July 17, 2008, meeting, the Board voted 6-1 to grant your Interpretation Appeal.

Enclosed please find the billing for the Zoning Board Appeals legal ad and abutters notification; also a copy of the board's decision. Zoning will now move forward on the site plan submittal (permit #2007-0189) for the redevelopment at 330 Allen Avenue.

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

Sincerely,



Gayle Guertin
Office Assistant

CC: Christopher L. Vaniotis, Attorney
file

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 17, 2008 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

1. **New Business:**

A. Interpretation Appeal:

330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047, 050 in the B-2 Business Community Zone. The Appellant is seeking an Interpretation Appeal regarding the written decision of the Zoning Administrator's letter issued on June 26, 2008, concerning the construction of the proposed new pharmacy (Walgreen's), located at 330 Allen Avenue, concerning section 14-185 (c) 1 (a), the definition of front yard setback. The submitted plans show the proposed new building of approximately 134 feet from the front property line off Washington Avenue. The average set back of buildings on adjacent parcels is 38.5 feet. The new building is set back further than allowed and should be set back no further than 38.5 feet from the property line. Representing the appeal is the applicant / purchaser, David Latulippe.

B. Practical Difficulty Variance Appeal:

330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047 and 050 in the B-2 Business Community Zone. The Appellant is seeking a Practical Difficulty Variance Appeal under Section 14-185 (c) 1 (a) of the City of Portland Zoning Ordinance. The Appellant is requesting a front yard setback variance of 134 feet instead of the required 38.5 feet. Representing the appeal is the applicant / purchaser, David Latulippe.

2. **Other Business:**

3. **Adjournment:**

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 17, 2008 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

⁰¹²
1. New Business:

A. Interpretation Appeal: *Request for Reconsideration*
330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047, 050 in the B-2 Business Community Zone. The Appellant is seeking an Interpretation Appeal regarding the written decision of the Zoning Administrator's letter issued on June 26, 2008, concerning the construction of the proposed new pharmacy (Walgreen's), located at 330 Allen Avenue, concerning section 14-185 (c) 1 (a), the definition of front yard setback. The submitted plans show the proposed new building of approximately 134 feet from the front property line off Washington Avenue. The average set back of buildings on adjacent parcels is 38.5 feet. The new building is set back further than allowed and should be set back no further than 38.5 feet from the property line. Representing the appeal is the applicant / purchaser, David Latulippe. ⇒

B. Practical Difficulty Variance Appeal:

330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047 and 050 in the B-2 Business Community Zone. The Appellant is seeking a Practical Difficulty Variance Appeal under Section 14-185 (c) 1 (a) of the City of Portland Zoning Ordinance. The Appellant is requesting a front yard setback variance of 134 feet instead of the required 38.5 feet. Representing the appeal is the applicant / purchaser, David Latulippe.

2. Other Business:

3. Adjournment:

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 17, 2008 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: July 18, 2008

RE: Action taken by the Zoning Board of Appeals on July 17, 2008.

The meeting was called to order at 6:35pm.

Roll call as follows: **Members Present:** David Dore, Philip Saucier, Peter Coyne, Deborah Rutter, Peter Thornton, Gordon Smith and Jill Hunter.

Members Absent: None

1. New Business:

A. Interpretation Appeal:

330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047 and 050 in the B-2 Business Community Zone. The Appellant is seeking an Interpretation Appeal regarding the written decision of the Zoning Administrator's letter issued on June 26, 2008, concerning the construction of the proposed new pharmacy (Walgreen's), located at 330 Allen Avenue, concerning section 14-185 (c) 1 (a), the definition of front yard setback. The submitted plans show the proposed new building of approximately 134 feet from the front property line off Washington Avenue. The average set back of buildings on adjacent parcels is 38.5 feet. The new building is set back further than allowed and should be set back no further than 38.5 feet from the property line. Representing the appeal is the applicant / purchaser, David Latulippe and Christopher Vaniotis, Attorney. **The Board voted 6-1 and granted the Interpretation Appeal.**

B. Practical Difficulty Variance Appeal:

330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047 and 050 in the B-2 Business Community Zone. The Appellant is seeking a Practical Difficulty Variance Appeal under Section 14-185 (c) 1 (a) of the City of Portland Zoning Ordinance. The Appellant is requesting a front yard setback variance of 134 feet instead of the required 38.5 feet. Representing the appeal is the applicant / purchaser, David Latulippe. **The Board voted 7-0 for the Practical Difficulty Appeal to be withdrawn by the applicant.**

2. Other Business: None

3. Adjournment: 7:40pm

Enclosure:

Agenda of July 17, 2008
Original Zoning Board Decision
1 tapes of meeting

CC: Joseph Gray, City Manager
Alex Jaegerman, Planning Department
Penny St. Louis Littell, Director, Planning & Urban Development
T.J. Martzial, Housing & Neighborhood Services

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Maximum Front Yard Setback in B-2 Zone:

Interpretation Appeal

DECISION

Date of public hearing:

July 17, 2008

Name and address of applicant:

The Richmond Company, David Latulippe, 23 Concord Street, Wilmington, MA 01887

Location of property under appeal:

330 Allen Avenue, Portland, ME

For the Record:

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

Christopher Variotis, Bernstein Shar, 100 Middle Street, P.O. Box 9729, Portland, ME 04104-5029

David Latulippe, 35 Primrose Lane, Freeport, ME

Fred Hipp, adjacent owner (proponent)

Steven Cope, Represents Laurie Bernier (proponent)

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

Laurie Bernier (proponent), P.O. Box 204, Gray, ME 04039

Robert Esposito, Falmouth, ME (proponent)

Pam Lavelle, Portland (proponent)

Mike Rutherford, No. K Peering, Portland (proponent)

Cristy Esposito, Falmouth, ME (proponent)

Findings of Fact and Conclusions of Law:

The Board's authority to review an interpretation of the Zoning Administration is pursuant to Section 14-472 of the zoning ordinance.

The City's Zoning Administrator issued an Interpretation on June 26, 2008, stating that pursuant to section 14-185(c)(1)(a) of the zoning ordinance the applicant's proposed new building at 340 Allen Avenue may be set back no more than 38.5 feet from the property line (the maximum front yard setback). The language of that provision of the ordinance states as follows:

"Except as provided in subsection (e) below, the following setbacks are required:

1. Front Yard

a. Minimum front yard in B-2 and B-2c zone: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected."

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

Satisfied b-1 Not Satisfied

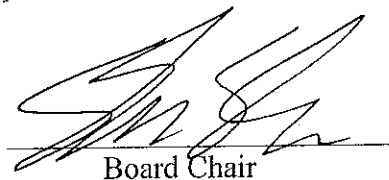
Reason: ~~Section 14-185(c)(1)(a)~~ Section 14-185(c)(1)(a) speaks to the minimum ^{front} yard setback, and does not establish a minimum, unlike the B-2b zone. The reading of the ordinance, and the difference between the 2 zones in the ordinance + planning memo, lead the Board to believe that the

Decision: (check one)

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

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

Dated: 7/17/08


Board Chair

**CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT**

389 Congress Street
Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1394	Applicant: David Latulippe
Project Name: 330 Allen Ave	Location: 330 ALLEN AVE
CBL: 344 E008001	Application Type: Interpretation Appeal
Invoice Date: 07/10/2008	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$298.50		\$100.00		\$198.50	On Receipt

First Billing

Previous Balance **\$0.00**

<u>Fee Description</u>	<u>Qty</u>	<u>Fee/Deposit Charge</u>
Legal Advertisements	1	\$56.00
Notices	190	\$142.50
Appeal Fee	1	\$100.00
		<hr/> \$298.50
	Total Current Fees:	+ \$298.50
	Total Current Payments:	- \$100.00
	Amount Due Now:	<hr/> \$198.50

Detach and remit with payment

Bill to: David Latulippe
23 Concord Street
Wilmington, MA 01887

CBL 344 E008001
Application No: 0000-1394
Invoice Date: 07/10/2008
Invoice No: 31747
Total Amt Due: \$198.50
Payment Amount:

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.

for the file - introduced AT hearing

PLANNING BOARD REPORT #50-99

TEXT AND MAP AMENDMENTS
for
B-1 and B-1b NEIGHBORHOOD BUSINESS ZONES
&
B-2 and B-2b COMMUNITY BUSINESS ZONES

AND

TEXT AMENDMENTS
for
SITE PLAN ORDINANCE

Submitted to:
Portland City Council
Portland, Maine

October 18, 1999

I. INTRODUCTION

and automobile dealerships; there are two standards in the text specific to the auto service stations, car washes and auto dealerships. The first standard requires a five foot wide landscaped buffer along street frontage, except for driveways, and the buffer shall consist of a variety of plantings in accordance with the City's technical and design guidelines. Secondly, car washes shall be designed to avoid the tracking of residual waters into the street. This is not a new standard for car washes, but has been relocated to apply to the auto related facilities.

There are several "other" conditional uses listed in the B-2 zones, which are proposed to be included within the B-2b. The "other" conditional uses are printing and publishing establishments, wholesale distribution, and research and development and related production establishments. As mentioned earlier, the Board of Appeals would serve as the reviewing authority for these uses.

C. Dimensional requirements Sec. 14-185

1. Minimum lot size

Currently, long term and extended care facilities must meet a minimum lot size of 10,000 square feet for the first 9 residents plus 750 square feet for each additional resident provided no more than 2 acres is required. An intermediate care facility must have a minimum of 10,000 square feet. The proposal is to combine intermediate care facilities with the other types of establishments and simply require a minimum lot size of 10,000 square feet.

There is no minimum front yard requirement in the B-2 zone, except that the front yard setback shall not exceed the average depth of the closest developed lots on either side of the property. In the B-2b zone a maximum front yard setback of ten (10) feet is proposed or in cases where the average depth of the front yard of adjoining developed lots is closer to the street, then the average will not be exceeded by the pending project. The same maximum setback is proposed for side yards on side streets (corner lots), so buildings will be located at street corners. An exception is proposed to this requirement which states that any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. Major streets are defined as streets with the highest traffic volume and the greatest street width. Building additions are exempt from these setback requirements. The maximum setback serves as a "build-to line", one of the suggestions contained in the *Nason's Corner* study and consistent with the intent of the B-2b.

Business representatives have expressed opposition to the maximum front yard setback proposed in the B-2b zone at both public hearings. It was felt that such a requirement would hinder businesses and runs counter to current development trends. An amendment to a motion was proposed to eliminate the maximum front yard setback in the B-2b zone and have the same dimensional requirements for both B-2 and B-2b. The B-2b zone is intended for areas with compact urban development that maintain a strong streetscape along the street line. The amendment failed for lack of a second.



PORTLAND MAINE

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

June 26, 2008

Christopher L. Vaniotis
Bernstein Shur Counselors at law
100 Middle Street
PO Box 9729
Portland, ME 04104-5029

RE: 340 Allen Avenue – 344-E-036 – B-2 Zone – Site Plan Application #2007-0189

Dear Chris,

This department is in receipt of a site plan submittal concerning the redevelopment of a site on the corner of Washington and Allen Avenues. During an initial zoning analysis, it has come to my attention that the required front yard setback is not being met as historically interpreted by this division.

It is understood that the front of this corner lot is along Washington Avenue. Therefore Allen Avenue is a side yard on a side street. 14-185(c)1.a. states:

“1. Front Yard

a. *Minimum front yard in B-2 and B-2c zone:* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

b. *Maximum front yard in the B-2b zone (On-peninsula):* The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A “developed lot” means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

c. *Maximum front yard in B-2b zone (Off-peninsula):* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest

developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.”

The property being redeveloped is within the B-2 Zone. Therefore the front yard requirements would be controlled by 1.a which regulates the front yard requirements for the B-2 and B-2c zones. The B-2b zone is regulated under 1.b. and 1.c.

The submitted plans show a front yard setback of approximately 134 feet from the front property line off Washington Avenue back to the front of the building. These same plans are showing the average setback of buildings on adjacent parcels as 38.5 feet. My interpretation of the minimum front yard setback clearly shows the new building is setback further than what is allowed under the ordinance. The new building should be setback no further than the 38.5 feet from the front property line.

I understand the applicant's reasoning concerning this section of the ordinance. However, I disagree with that reasoning. I understand that the title heading of the ordinance does read “Minimum” and not “Maximum”. Court cases have previously determined that headings and/or titles of paragraph do not rule an interpretation. It is the wording of the regulations that guide an interpretation. I have determined that the wording of 1.a. does limit the projection of a structure into the site from the front property line. In essence there is a maximum setback that a building can be placed extending into a lot from the front property line, even though the heading may classify this requirement as a “minimum”.

Much of my interpretation is guided by the plain meaning of the words such as “exceed”, which means go beyond, or to surpass. Even the word “setback” is referring to the act of setting back or away from the property line (in this case the front property line). The setback of the new building shall not be placed further back from the front property line or beyond the average setback of the buildings on the adjacent parcels. I do not believe that “exceed” refers to placing the building closer to the front property line from the average setback line.

My interpretation of the ordinance is reinforced by Planning Board Staff memos to the City Council in 1999 when the B-2 zones were revised. The amendments at that time were characterized to “promote pedestrian oriented design and access”. Orientation close to the street is one of the methods used for this goal.

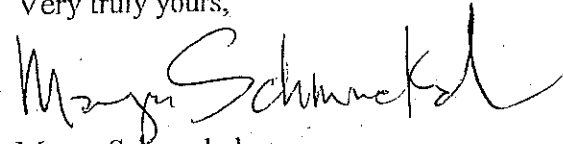
The City of Portland Technical Standards and Design Guidelines also fortify my interpretation. Under the guideline for building location and form, the Technical Standards state that “buildings shall be located near the street so as to create an urban street wall”. It goes on to state that that “Major entries should be adjacent to, or very close to, the street and public sidewalk”. The intent is to bring the building as close to the street line as possible. Section 14-185(c)1.a. does first state that there is no minimum setback required. The requirement in this section is not intended to set the building back further than the buildings on either side.

Instead it is intended to set the building *no further back* than the buildings on either side.

Because this particular issue arose during my zoning review of your initial application, the zoning review has not been finalized. Although, at this time, I am not aware of any other violations of the ordinance, I reserve my right to complete my review and would certainly apprise the applicant immediately of any other zoning issues.

You have the right to appeal my decision concerning use. If you wish to exercise your right to appeal, you have 30 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. Please contact this office for the necessary paperwork that is required to file an appeal.

Very truly yours,



Marge Schmuckal
Zoning Administrator

Cc: Penny Littell, Director of Planning and Development
Alex Jaegerman, Planning Division Director
Barbara Barhydt, Planning
Legal
David Latulippe, The Richmond Co., 23 Concord Street, Wilmington, MA
01887

attachments

PLANNING BOARD REPORT #50-99

TEXT AND MAP AMENDMENTS
for
B-1 and B-1b NEIGHBORHOOD BUSINESS ZONES
&
B-2 and B-2b COMMUNITY BUSINESS ZONES

AND

TEXT AMENDMENTS
for
SITE PLAN ORDINANCE

Submitted to:

Portland City Council
Portland, Maine

October 18, 1999

D. Other requirements Sec. 14-166

The off-street parking requirements have been modified slightly to clarify that 10% of the required parking may be located between a structure and street in both the B-1 and B-1b zone, where existing structures exceed the minimum or maximum setbacks.

The external storage provisions are revised to require fully enclosed containers for solid waste. Vehicles with or without wheels are prohibited for use as on-site storage. Truckload sales are exempt, provided that the activity does not extend beyond three consecutive days and no more than three times per calendar year.

E. External Effects Sec. 14-167

Uses within the B-1 are required to operate within a completely enclosed structure. As a means of encouraging pedestrian activity in neighborhood business zones, an exception to this provision is suggested to allow open-air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc. [Sec. 14-167(1)].

A revision to the materials or wastes section states that no materials or wastes shall be deposited that are clearly visible from neighbors' properties [Sec. 14-167(6)].

V. COMMUNITY BUSINESS B-2 and B-2b ZONING TEXT AMENDMENTS

1. Intent of B-2 and B-2b Zone

The B-2 Community Business Zone offers opportunities for larger and more intensive commercial areas serving both adjoining neighborhoods and the community as a whole. To improve the appearance and access of these commercial centers, it is suggested that they be easily accessible by both automobiles and pedestrians. Developments should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

The B-2b zone is proposed as a new zoning classification, which is designed to preserve the more compact urban development of Portland. The B-2b purpose states it is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street, in areas where a more compact urban development pattern is established and exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections to foster an existing urban commercial development pattern.

2. Text Amendments

Text amendments to the Community Business B-2 and B-2b Zones are contained within the included packet of amendments and ordinance citations are noted below for the City Council's reference. The complete text is contained within the draft amendments included in the packet. Attachment 4 and 5 are reduced

and automobile dealerships: there are two standards in the text specific to the auto service stations, car washes and auto dealerships. The first standard requires a five foot wide landscaped buffer along street frontage, except for driveways, and the buffer shall consist of a variety of plantings in accordance with the City's technical and design guidelines. Secondly, car washes shall be designed to avoid the tracking of residual waters into the street. This is not a new standard for car washes, but has been relocated to apply to the auto related facilities.

There are several "other" conditional uses listed in the B-2 zones, which are proposed to be included within the B-2b. The "other" conditional uses are printing and publishing establishments, wholesale distribution, and research and development and related production establishments. As mentioned earlier, the Board of Appeals would serve as the reviewing authority for these uses.

C. Dimensional requirements Sec. 14-185

1. Minimum lot size

Currently, long term and extended care facilities must meet a minimum lot size of 10,000 square feet for the first 9 residents plus 750 square feet for each additional resident provided no more than 2 acres is required. An intermediate care facility must have a minimum of 10,000 square feet. The proposal is to combine intermediate care facilities with the other types of establishments and simply require a minimum lot size of 10,000 square feet.

There is no minimum front yard requirement in the B-2 zone, except that the front yard setback shall not exceed the average depth of the closest developed lots on either side of the property. In the B-2b zone a maximum front yard setback of ten (10) feet is proposed or in cases where the average depth of the front yard of adjoining developed lots is closer to the street, then the average will not be exceeded by the pending project. The same maximum setback is proposed for side yards on side streets (corner lots), so buildings will be located at street corners. An exception is proposed to this requirement which states that any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. Major streets are defined as streets with the highest traffic volume and the greatest street width. Building additions are exempt from these setback requirements. The maximum setback serves as a "build-to line", one of the suggestions contained in the *Nason's Corner* study and consistent with the intent of the B-2b.

Business representatives have expressed opposition to the maximum front yard setback proposed in the B-2b zone at both public hearings. It was felt that such a requirement would hinder businesses and runs counter to current development trends. An amendment to a motion was proposed to eliminate the maximum front yard setback in the B-2b zone and have the same dimensional requirements for both B-2 and B-2b. The B-2b zone is intended for areas with compact urban development that maintain a strong streetscape along the street line. The amendment failed for lack of a second.

The other dimensional revisions proposed for B-2 and B-2b include the following:

- a) delete the minimum lot width of 50 feet;
- b) the maximum structure height may be exceeded under certain circumstances, provided each of the minimum setbacks are met; and
- c) the maximum impervious ratio is 80% in the B-2 zone and 90% is proposed in the B-2b zone.

D. Other requirements Sec. 14-186

1. Off-street parking and loading

The off-street parking provisions contain an exception which allows parking in the front yard of buildings built before 1996 where a portion of the building is removed and used for parking. It is proposed that this exception be deleted [Sec 14-186(4)a].

Division 20, Sec. 14-332 includes the Board's recommendation to increase the number of parking spaces for office uses in the B-2 to B-2b from 2.5 spaces to 3 spaces per 1,000 square feet of office space. The Board received many citizen complaints regarding inadequate off-street parking for office uses, so the Board is recommending increasing the required number of spaces in B-2 and B-2b zones. One member pointed out that this is not consistent with the City's Transportation Plan.

2. Front yard parking

In the B-2 and B-2b zones, off-street parking is not allowed between the street line and the required minimum or maximum setback lines. The provision is clarified to state where an existing building exceeds the minimum or maximum setbacks, then a maximum of 10% of the parking may be located between the structure and the street.

As in the B-1 amendments, the exterior storage standards are clarified that vehicles or truck trailers with or without wheels may not be used for on-site storage, except for truckload sales (duration of no more than 3 days and no more than 3 times per year). In the B-2 zones, the following exceptions are proposed:

- a) except where such storage is located in a designated loading zone on an approved site plan; or
- b) such storage is not visible from the street or adjacent residences and again such storage is shown on an approved site plan.

E. External Effect Sec. 14-187

Uses shall be operated within a completely enclosed structure. As a means of encouraging pedestrian activity in the community business zones, an exception is suggested to allow specific open-air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc. [Sec. 187(1)].

VI. PUBLIC COMMENT

The Planning staff has responded to many requests for information regarding the proposed amendments. A summary of public comments is included as Attachment 10. In addition, there is a written request from Mr. Bryant to include his property near Woodfords Corner within the B-2b zone, Attachment 11, and Mr. Maier submitted a request to include self-storage as a permitted use in the B-1 zone, Attachment 12.

VII. COMPLIANCE WITH COMPREHENSIVE PLAN

Portland's *Transportation Plan* contains the underlying policies for the proposed text amendments. The guiding principle of the *Plan* states, "Provide maximum mobility in a balanced transportation system which encompasses all modes, to support the economic vitality and quality of life of the Portland community." One of the goals is to ensure that future growth does not foster auto dependencies. Relevant land use/transportation policies include the following:

- Vibrant neighborhoods include nearby, small-scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance or residents of all neighborhoods, as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood.
- Allow development along transit corridors and near community centers to evolve at a density sufficient to make public transit, walking and biking viable options. Such density should be coupled with policies that encourage or maintain a healthy share of owner-occupancy in these areas as well as compatible site design.

The *Nason's Corner Study* has not been adopted as part of the City's Comprehensive Plan; however, it does offer specific policy guidance from the neighborhood and builds on the goals of the *Transportation Plan*. The specific recommendations to limit building size, prohibit bottle redemption centers, maintain small-scale development, confirm that drive-throughs are not permitted in the B-1, improve the aesthetics of the neighborhood, and control the external impacts of commercial uses are consistent with the policies of the *Transportation Plan*.

The proposed amendments are consistent with the goals and policies of the City's Comprehensive Plan. The zoning text revisions are intended to strengthen the concept of neighborhood commercial areas and enhance the attractiveness and compatibility of commercial areas with adjoining residential neighborhoods. Specifically, the amendments seek to promote pedestrian oriented design and access. Residential uses are encouraged above ground floor businesses, which supports the concept of higher density along arterials.

VIII. RECOMMENDATION FOR THE BOARD TO CONSIDER

On the basis of the information contained within the Planning Board Report # 33-99, the Planning Board finds that the proposed zoning amendments for the Neighborhood Business B-1 and B-1b Zone, the Community Business B-2 and B-2b Zone, and the Site Plan Ordinance Amendments to be consistent with Portland's Comprehensive Plan and recommends adoption of the amendments to the City Council.

City of Portland
Technical Standards and Design Guidelines

GUIDELINES: The following guidelines set forth various land use planning objectives to be achieved in the future in the following zones: B-1, B-1b, B-2, B-2b.

1. Building Location and Form

Guideline: Buildings shall be located near the street so as to create an urban street wall.

An urban street wall is created by a pattern of buildings which line the street in a consistent manner, thereby establishing a desirable spatial relationship between the building in the commercial district and the major street. Location is one of several related factors defining the street environment.

The desired condition is to have the building frame and enclose the street, which is achieved by providing building height that is in appropriate proportion to the width of the adjoining major street.

A ratio of building height to street width of one-to-two creates a strong "room-like" street, while a one-to-three ratio provides good street definition and proportion. Shorter buildings of one story facing broad streets will not achieve the desired relationship. By way of example, for a fifty-foot street right-of-way, a minimum building height of 15' is desired, with 25' height preferred. An eighty-foot right-of-way would foster a minimum of a 27' building to achieve the 1:3 proportion, with 40' building height preferred. Obviously, buildings located as close as possible to the street right-of-way will provide better definition and proportion than buildings set further back.

2. Building Function

Guideline: An urban street and business district requires a substantial intensity and variety of uses.

It is beneficial to have mixed uses within portions of buildings situated near the street. For example, a retail first floor might have office or residential on the second or third floors. This provides both the scale of building height desired, as well as the economic vitality of the business district.

3. Orientation of Buildings and their Entrances to the Street

Guideline: Major building entries shall be designed and located to provide the primary building access oriented to the public street and sidewalk.

Doorways should be prominent and obvious in appearance, so as to attract the users toward the entry. Major entry features should address the street, with entry courts, display windows, signage, lights, walkways, and vestibules, as appropriate. Major entries should be adjacent to, or very close to, the street and public sidewalk.

4. Windows

Guideline: Windows should be located in all building facades visible from the public way, especially on building facades along the major public street.

Retail uses with store fronts are the most desirable feature for locations adjacent to the public sidewalk; and active, transparent, and interesting windows contribute the maximum value. Limitations on transparency, such as dark or reflective glass, or interior coverings, should be avoided. Where uses (such as office) are not conducive to transparent viewing from the public way, windows can still convey a sense of activity and presence along the street. Even these more private windows can convey occupancy and habitation when lighted from within, as during evening hours, even if the interior is screened from view.

5. Building Character, Detail, Scale, and Graphic Qualities

Guideline: Building design should include various architectural and graphic amenities to provide a strong presence along a street and relate a building to its community.

Awnings, canopies, and flags may be utilized to highlight entryways and to further identify the activity and identity of a use. Facade lighting may be used to highlight entryways or to provide visual interest along an otherwise blank facade. Building scale, roof pitch, architectural detail, and fenestration shall be designed to complement and be compatible with surrounding residential and commercial buildings.

6. Signage and Building Entrances

Guideline: Building entrances and building signage in the B-1, B-1b, and B-2b zones should be designed and constructed at the pedestrian scale. (**We may need to revise the Sign Ordinance for allowed height and dimension of signs.*)

7. Development Relationship to Street

Guideline: Building facades and site amenities should form a cohesive wall of enclosure along a street.

Where buildings are not located at the street line, site amenities, including masonry walls, fences, and landscaping, should be placed along the street to provide a sense of enclosure or definition.

8. Parking Lots

Guideline: Parking Lots should be screened from view of the public way.

Landscaping or fencing should be used to screen parking lots from public ways and residential neighbors. Where parking is located within the front yard (or side yard of a corner lot), a landscaped buffer or fence should be placed along the street line to distinguish the private space from the public space and to help define the street wall.

Guideline: Parking lots should be screened from neighboring properties.

A densely planted landscape buffer or fencing should be installed to protect neighboring properties from the impacts associated with the parking lot and the use it serves.

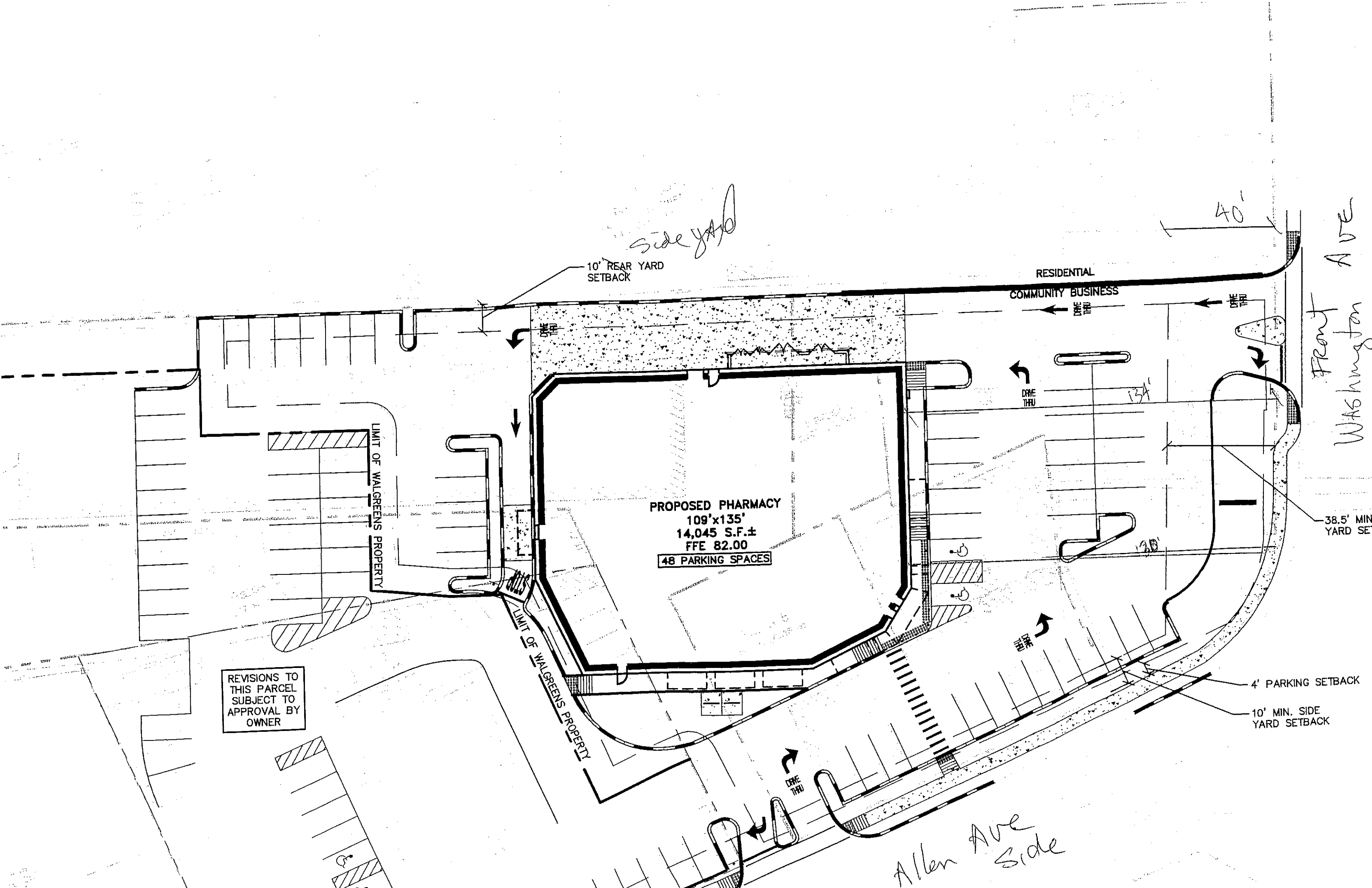
Guideline: Crosswalks should be provided within parking lots and across entrance driveways, directing pedestrians to building entrances.

Guideline: Street trees should be planted along property street frontage 25ft. on center.

9. Transit Connections

Guideline: Development proposed along established transit corridors must design uninterrupted access from the proposed development to the transit stop.

An easement to place a transit shelter may be requested for development located along a transit corridor.



10' REAR YARD SETBACK

Side yard

RESIDENTIAL
COMMUNITY BUSINESS

40'

*Front
Washington
Ave*

PROPOSED PHARMACY
109'x135'
14,045 S.F.±
FFE 82.00
48 PARKING SPACES

38.5' MIN.
YARD SET

LIMIT OF WALGREENS PROPERTY

LIMIT OF WALGREENS PROPERTY

REVISIONS TO THIS PARCEL
SUBJECT TO APPROVAL BY
OWNER

4' PARKING SETBACK

10' MIN. SIDE
YARD SETBACK

*Allen Ave
Side*

**CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT**

389 Congress Street
Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1394	Applicant: David Latulippe
Project Name: 330 Allen Ave	Location: 330 ALLEN AVE
CBL: 344 E008001	Application Type: Interpretation Appeal
Invoice Date: 07/10/2008	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$298.50		\$298.50		\$0.00	On Receipt

Previous Balance **\$0.00**

<u>Fee Description</u>	<u>Qty</u>	<u>Fee/Deposit Charge</u>
Legal Advertisements	1	\$56.00
Notices	190	\$142.50
Appeal Fee	1	\$100.00
		<hr/> \$298.50
	Total Current Fees:	+ \$298.50
	Total Current Payments:	- \$298.50
	Amount Due Now:	\$0.00

Bill to: David Latulippe
23 Concord Street
Wilmington, MA 01887

CBL 344 E008001
Application No: 0000-1394
Invoice Date: 07/10/2008
Invoice No: 31747
Total Amt Due: \$0.00
Payment Amount:



CITY OF PORTLAND, MAINE
 Department of Building Inspections

Sept. 12, 2008

from The Richmond Company Inc

of Work 330 Columbia St

Construction \$ _____

Fee \$ _____

(IL) _____ Plumbing (I5) _____ Electrical (I2) _____ Site Plan (U2) _____

217

44 E 009

26710 Total Collected \$ 397.00

THIS IS NOT A PERMIT

No work is to be started until PERMIT CARD is actually posted on the premises. Acceptance of fee is no guarantee that permit will be issued. PRESERVE THIS RECEIPT. In case permit cannot be issued the amount of the fee will be refunded upon return of the fee less \$10.00 or 10% whichever is greater.



CITY OF PORTLAND, MAINE

Department of Building Inspections

June 1 2008

Received from James J. Pomeroy

Location of Work 340 Cotton Ave

Cost of Construction \$ _____

Permit Fee \$ _____

Building (IL) ___ Plumbing (I5) ___ Electrical (I2) ___ Site Plan (U2) ___

Other 3A Inspection

CBL: 344 E 008, 012, 036, 037, 042, 047, 405U

Check #: 10000 Total Collected \$ 100.00

THIS IS NOT A PERMIT

No work is to be started until PERMIT CARD is actually posted upon the premises. Acceptance of fee is no guarantee that permit will be granted. PRESERVE THIS RECEIPT. In case permit cannot be granted the amount of the fee will be refunded upon return of the receipt less \$10.00 or 10% whichever is greater.

WHITE - Applicant's Copy
YELLOW - Office Copy
PINK - Permit Copy

[Handwritten signature]