

Members Present: DAVID Dale, Philip Saucier, Peter Coyne, Debraak Kutter, Peter Thawnton, Gordon Smith, Jill Hunter

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Members Absent: None

Called to order: 6:35 pm **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:

Granted
6-1

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.

Christopher Variotis, A/H/N/g

B. Practical Difficulty Variance Appeal:

Withdrawn
7-0

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: 7:40 pm

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

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 7-0 to grant your Practical Difficulty Appeal to be withdrawn.

Enclosed please find the billing for the Zoning Board Appeals legal ad and abutters notification; also a copy of the board's decision

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
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1395	Applicant: David Latulippe
Project Name: 330 Allen Ave	Location: 330 ALLEN AVE
CBL: 344 E008001	Application Type: Practical Difficulty Variance 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**

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

 Detach and remit with payment

Bill to: David Latulippe
 The Richmond Company
 Wilmington, MA 01887

CBL 344 E008001
Application No: 0000-1395
Invoice Date: 07/10/2008
Invoice No: 31748
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.

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**

Fee Description	Qty	Fee/Deposit Charge
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: \$298.50

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



City of Portland Zoning Board of Appeals

July 10, 2008

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

Dear Appellant,

Your Practical Difficulty Variance Appeal has been scheduled to appear before the Zoning Board of Appeals on **Thursday, July 17, 2008 at 6:30 p.m.** on the second floor of City Hall in Room 209. Please remember to bring a copy of the packet with you to the meeting to answer any questions the Board may have.

I have included an agenda with your appeal highlighted, as well as the procedures of the meeting for you to familiarize yourself.

I have also included the bill for the legal ad and notices. 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 207-874-8701 if you have any questions.

Sincerely,

Gayle Guertin
Office Assistant

Cc: 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
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1395	Applicant: David Latulippe
Project Name: 330 Allen Ave	Location: 330 ALLEN AVE
CBL: 344 E008001	Application Type: Practical Difficulty Variance 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**

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements		\$56.00
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Total Current Fees:	+	\$298.50
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Amount Due Now:		\$198.50

 Detach and remit with payment

Bill to: David Latulippe
 The Richmond Company
 Wilmington, MA 01887

CBL 344 E008001
Application No: 0000-1395
Invoice Date: 07/10/2008
Invoice No: 31748
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.

CITY OF PORTLAND, MAINE
Zoning Board of Appeals

Zoning Board of Appeals Committee

DATE: 7/17/2008
TIME: 6:30:00 PM
LOCATION: 389 Congress Street

AGENDA

- 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.
- 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.

Gayle Guertin - zoning board of appeal legal ad

From: Gayle Guertin
To: classified@pressherald.com
Date: 7/9/2008 9:57 AM
Subject: zoning board of appeal legal ad
CC: Ann Machado; Gayle Guertin; Marge Schmuckal

Good Morning Joan!

Attached is the Zoning Board of Appeals legal ad for Friday July 11, 2008.

Thank You
Gayle Guertin @ 874-8701

**IMPORTANT NOTICE FROM CITY OF PORTLAND
INSPECTIONS DIVISION**

**TO RESIDENTS AND PROPERTY OWNERS
IN THE VICINITY OF 330 ALLEN AVENUE**

WHAT 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 Lantippe.

WHEN The Zoning Board of Appeals meeting will be held on Thursday, July 17, 2008 at 6:30 pm at Portland City Hall, located at 389 Congress Street. The meeting will take place on the second floor in Room 209, 2nd Floor, City Hall.

FOR MORE INFORMATION

For more information you may contact Marge Schmuckel, Zoning Administrator, at 207-874-8695.

**IMPORTANT NOTICE FROM CITY OF PORTLAND
INSPECTIONS DIVISION**

**TO RESIDENTS AND PROPERTY OWNERS
IN THE VICINITY OF 330 ALLEN AVENUE**

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INSPECTIONS DIVISION**

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**IMPORTANT NOTICE FROM CITY OF PORTLAND
INSPECTIONS DIVISION**

**TO RESIDENTS AND PROPERTY OWNERS
IN THE VICINITY OF 330 ALLEN AVENUE**

WHAT Practical Difficulty Variance Appeal:
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134
38.5

134.

STATEMENT OF PRACTICAL DIFFICULTY VARIANCE APPEAL
OF THE RICHMOND COMPANY, INC.

The Zoning Administrator has determined that a building cannot be located further away from the street line of Washington Avenue than the average depth of buildings on either side of the parcel, creating what the Zoning Administrator has decided is a maximum front setback of 38.5 feet from the street. The Richmond Company, Inc. is requesting a variance of up to 98 feet from the setback line determined by the Zoning Administrator, which would allow the building to be located up to 140 feet from the street line.

Section 14-472 allows the board of appeals to grant a variance from the dimensional standards when strict application of the provisions of the ordinance would create a practical difficulty, and when all the following conditions are found to exist:

1. The need for a variance is due to the unique circumstances of the property, and not to the general conditions of the neighborhood;

The properties to be developed are an assemblage of small non-conforming parcels. As individual parcels, the properties could not be redeveloped under the current ordinance standards.

The unique configuration, size and access into and out of the properties significantly limit how the properties can be redeveloped. In order to safely access the properties the access points need to be located at the extremes of the properties. A significant internal conflict between automobile and pedestrian traffic is created if the buildings are located on the front setback lines. The parking areas would have to be located on the other side of the main drive aisles.

Currently the properties are accessed by separate curb cuts. The proximity of several of the curb cuts to the main intersection make entering and exiting the individual properties very challenging. The City of Portland and Maine DOT have expanded and added lanes on both Washington Avenue and Allen Avenue to the detriment of these properties. The Maine DOT takings in 1980 and 2003 increased the non-conformity of the properties fronting Washington Avenue.

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

The variance would produce a desirable change in the character of the neighborhood by redeveloping a property consisting of small, unattractive and underperforming buildings which look blighted. The current buildings have had a long history high tenant turnover and unsuccessful business. The current properties have minimal architectural treatments and little to no landscaping.

Practical Difficulty Variance
340 330 Allen Ave

average maximum flow set back 38.5
 3.8

Variance 98 ~~85~~ feet

$$\begin{array}{r} \text{already} \\ \text{average} \end{array} - \frac{134}{38.5} \\ \hline 95.5$$

$$\begin{array}{r} 38.5 \\ + 98 \\ \hline 101.5 \\ + 36.5 \\ \hline 140. \end{array}$$

asking up to 140.00
 ~~98~~ feet

instead of required 38.5
- would allow 140 feet away

7/3/08
10:10 am

- left Joe Morden Message regarding
Variance of 98 feet + wanting 140 feet
from street line,



Joe Mander
657 6910

CITY OF PORTLAND, MAINE
Department of Building Inspections

June 30 2008

Received from Howard Palmer

Location of Work 340 Allen Ave

Cost of Construction \$ _____

Permit Fee \$ 100.00

Building (1L) ___ Plumbing (15) ___ Electrical (12) ___ Site Plan (U2) ___

Other ZBA Practical Difficulty

Variance
CBL: 344 E 008, 012, 26, 27, 43, 47 + 050

Check #: 0986 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



CITY OF PORTLAND, MAINE
Department of Building Inspections

Sept. 43 2008

Received from The Richmond Company, Inc.

Location of Work 330 Commercial

Cost of Construction \$ _____

Permit Fee \$ _____

Building (II) Plumbing (I5) Electrical (I2) Site Plan (U2)

Other ZF A

CBL: 344 E 009

Check #: 26710

Total Collected \$ 397.00

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