

CITY OF PORTLAND, MAINE

BOARD OF APPEALS



CONDITIONAL USE APPEAL

DECISION

Name and address of applicant: Meriel Nevers, executrix  
of the estate of Irene M. Bertley

Location of property under appeal: 115 Alpha Rd.

For the Record

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

<del>XXXXXXXXXX</del>	<u>Paul Anderson</u>
<u>Meriel Nevers</u>	_____
<u>Pam Wilkoff</u>	_____

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

Findings of Fact

1. The proposed conditional use is/is not (circle one) permitted under Section 14-88(1) of the Zoning Ordinance, for the following reason(s):  
\_\_\_\_\_  
\_\_\_\_\_
2. The proposed conditional use does/does not (circle one) meet all special standards, conditions or requirements, if any, applicable thereto, for the following reason(s):  
\_\_\_\_\_  
\_\_\_\_\_
- 3-A. There are/are not (circle one) unique or distinctive characteristics or effects associated with the proposed conditional use, for the following reason(s):  
\_\_\_\_\_  
\_\_\_\_\_

3-B. There will/will not (circle one) be an adverse impact on the health, safety or welfare of the public or the surrounding area, for the following reason(s): \_\_\_\_\_

3-C. The impact does/does not (circle one) differ substantially from the impact which would normally occur from such a use in that zone, for the following reason(s): \_\_\_\_\_

Motion to continue til next meeting

7-0

Conclusion\*

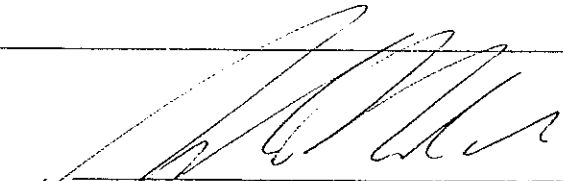
After public hearing on 2/22/56, and for the reasons above-stated, the accompanying application is hereby (check one)

\_\_\_\_\_ granted

\_\_\_\_\_ granted subject to the following condition(s): \_\_\_\_\_

\_\_\_\_\_ denied.

Dated: 2/22/56



Secretary of the Board

\*\*The application may be denied only if either the finding for #1 or 2 above is in the negative or the findings for #'s 3-A, 3-B and 3-C above are each in the affirmative.

# CITY OF PORTLAND, MAINE

BOARD OF APPEALS



## APPEAL AGENDA

The Board of Appeals will hold a public hearing in Room 209, City Hall, Portland, Maine on Thursday, February 22, 1996 at 7:00 p.m. to hear the following appeals:

### 1. Unfinished Business:

#### Variance:

- a. Space and Bulk - Section 14-473(c) of the Ordinance must be met by the following request:

19 Juniper Street, Andrew and Shirley Dunham, owners, request the Board allow the present four foot side yard setback instead of the allowed five foot side yard setback reduction (Section 14-433). R-2 Zone

### 2. New Business:

#### Conditional Use Appeals:

- a) 1558 Forest Avenue, Peter J. and Theresa A. Therrien, owners, request the Board permit a change of use from a single family dwelling to a single family dwelling with an in-law apartment. R-3 Zone
- b) 115 Alpine Road, Muriel Nevers, executrix of the estate of Irene M. Bartley, owner, request the Board legalize the present use of the property as that of a single family dwelling with an in-law apartment. R-3 Zone
- c) 162 Rowe Avenue, Leon B. Nevers, owner, request the Board allow a change of use from a single family dwelling to a two family dwelling. R-3 Zone
- d) 55 Harris Avenue, Sheila Ingraham, owner, request the Board permit the addition of an efficiency apartment to the single family dwelling. R-3 Zone

#### Variance:

Space and Bulk - Section 14-473(c)2 of the Ordinance must be met by the following request:

15 Orkney Street, Philip N. Caesar of E. J. Asselyn, Incorporated, on behalf of Joseph and Carmen Guite, owners, request the Board allow construction of a wheelchair ramp. R-5 Zone

### 3. Adjournment

**CITY OF PORTLAND, MAINE**

BOARD OF APPEALS



February 28, 1996

Muriel L. Nevers  
115 Alpine Road  
Portland, Maine 04103

RE: 115 Alpine Road ✓

Dear Ms. Nevers,

As you know, at its February 22, 1996 meeting, the Board of Appeals tabled your appeal prior to the close of the public hearing, requesting further information from you and suggesting a change of your appeal from a conditional use to an interpretation appeal.

Subsequently, a more thorough search of our microfiche records found the appropriate missing files, including the record of a previously sustained variance on August 1, 1968 for exactly what you were appealing. Your verbal withdrawal of this appeal was received upon your receipt of this information.

Also, you are entitled to a refund of the \$25.00 building permit fee paid at the time you applied for your appeal. We will require that you bring your original receipt to this office to receive your refund.

Sincerely,

Marge Schmückal  
Asst. Chief, Code Enforcement Division

cc: Joseph E. Gray, Jr., Dir, PUD  
P. Samuel Hoffses, C, Code Enf Div  
Charles Lane, Corp. Counsel  
Matthew D. Manahan, Chairman, Board of Appeals



CITY OF PORTLAND  
Planning and Urban Development Department

MEMORANDUM

TO: Nadeen Daniels, City Clerk

FROM: Marge Schmuckal, Asst. Chief, Inspection Services

SUBJECT: Actions taken by the Board of Appeals on February 22, 1996

DATE: February 23, 1996

The meeting was called to order at 7:05 p.m. All seven Board members were present to hear the following appeals:

1. Unfinished Business:

Variance:

19 Juniper Street, Andrew and Shirley Dunham, owners, the Board voted 6-0 to allow the present four foot side yard setback. Due to a conflict of interest, Lee Lowery was excused from participating in the hearing process. R-2 Zone

2. New Business:

Conditional Use Appeals:

1558 Forest Avenue, Peter J. and Theresa A. Therrien, owners, the Board voted 7-0 to grant an accommodation for one additional dwelling unit. R-3 Zone

115 Alpine Road, Muriel Nevers, executrix of the estate of Irene M. Bartley, owner, by mutual agreement with the Board, it was requested that this appeal be continued without prejudice. Ms. Nevers will file for an Interpretation Appeal regarding this request. R-3 Zone

162 Rowe Avenue, Leon B. Nevers, owner, the Board voted 7-0 to deny the change of use from a single family to accommodate an additional dwelling unit. R-3 Zone

55 Harris Avenue, Sheila Ingraham, owner, the Board voted 7-0 to grant the accommodation of an additional dwelling unit to the single family dwelling. R-3 Zone

**Variance:**

15 Orkney Street, Philip N. Caesar, on behalf of Joseph and Carmen Guite, owners, the Board voted 6-0 to grant the construction of a wheelchair ramp with the condition that ramp be removed when it is no longer needed. Because of a conflict of interest, Matthew Manahan excused himself from voting. R-5 Zone

The meeting was adjourned at 9:00 p.m.

Enclosure: Agenda for February 22, 1996 meeting  
Copy of Board's decision  
Tape of meeting

cc: Joseph E. Gray, Jr., Dir, Planning & Urban Development  
P. Samuel Hoffses, Chief, Inspection Svcs Division  
Charles A. Lane, Corp Counsel  
Matthew D. Manahan, Chairman

**CITY OF PORTLAND, MAINE**

BOARD OF APPEALS



February 11, 1996

Muriel Nevers  
115 Alpine Road  
Portland, Maine 04103

RE: 115 Alpine Road

Dear Ms. Nevers,

Receipt of your application for a Conditional Use Appeal for the property at 115 Alpine Road, Portland, Maine is acknowledged. However, it is necessary that you provide this office with documentation giving you Power of Attorney over the referenced property.

This appeal is scheduled for review before the Board of Appeals on Thursday, February 22, 1996 at 7:00 p.m., Room 209, City Hall, Portland, Maine. You must plan to attend this meeting to answer any questions which the Board members may have concerning this appeal.

A copy of the agenda will be sent to you when copies become available for distribution.

Sincerely,

Marge Schmuckal  
Asst. Chief, Code Enforcement Division

cc: Matthew D. Manahan, Chairman, Board of Appeals  
Joseph E. Gray, Dir, Planning & Urban Dev  
P. Samuel Hoffses, C. Code Enf Div  
D. Jordan, CEO

# CITY OF PORTLAND, MAINE

BOARD OF APPEALS



## APPEAL AGENDA

The Board of Appeals will hold a public hearing in Room 209, City Hall, Portland, Maine on Thursday, March 21, 1996 at 7:00 p.m. to hear the following appeals:

1. **Unfinished Business:**  
**Conditional Use Appeal:**

115 Alpine Road, Muriel Nevers, executrix of the estate of Irene M. Bartley, owner, request the Board legalize the present use of the property as that of a single family dwelling with the accommodation of one additional dwelling unit withdrawn. R-3 Zone

2. **New Business:**  
**Conditional Use Appeals:**

73 Lincoln Street, Laurie and Wendell Bickford, owners, request the Board to permit a change of use from a two family dwelling to a two family dwelling with one dwelling unit on the first floor having a family daycare for up to 12 children. R-5 Zone

27 Brentwood Street, Andrea Kolgin and Mark Sinclair, owners, request the Board to permit a change of use from a single family dwelling to a single family dwelling unit with daycare for up to 12 children. R-5 Zone

**Variance:**

Space and Bulk-Section 14-473(c)2 of the Ordinance must be met by the following requests:

165 Regan Lane, Peter and Stephanie Deroche, owners, request the Board to permit relief from required side yard setback to allow the addition of an attached garage with master bedroom above. R-3 Zone

209-215 Congress Street, East End Children's Workshop, owner, request the Board to grant relief from required parking spaces. B-2 Zone

182 Whitney Avenue, Residential Resources, Incorporated, leasee, request the Board to grant the construction of an exterior handicap ramp in the front yard to accommodate residents. R-3 Zone.

3. **Adjournment.**





CITY OF PORTLAND  
Planning and Urban Development Department

MEMORANDUM

TO: Chairman and Members, Board of Appeals

FROM: Marge Schmuckal, Zoning Administrator

SUBJECT: Appeal at 115 Alpine Road, Muriel Nevers

DATE: February 23, 1996

In an effort to find more information on this particular appeal, I decided to go through the entire street file for Alpine Road. (I'm not so sure I would have done the same if this property were located on Forest Avenue or some other much longer street!!)

Previously, I checked the microfiche for the address in question and the area around the address and even under the old lot number and came up with nothing. To make a long story short, I found the building permit and appeal information we thought we lost. A variance appeal was approved for a two family prior to a building permit being issued. Copies are attached.

For some reason these documents were under the 85-89 Alpine Road file. I have taken steps to have our microfiche record corrected to reflect the proper address.

Also, I spoke to Muriel Nevers and sent her attested copies of the documents she needs to sell her home.

As a result of this search and rescue, this appeal has been withdrawn.

cc: Charlie Lane, Corp. Counsel  
P. Samuel Hoffses, C, Code Enf Div

A.F. Lot 28 Alpine Road

July 15, 1968

Martin Bartley  
213 Auburn Street

cc to: Corporation Counsel

Dear Mr. Bartley:

Building permit to construct 2-family dwelling with attached 2-car garage, 44'8" x 64' at the above named location is not issuable under Section 604.4.a of the Zoning Ordinance because the property is located in an R-3 Residential Zone where this use is not allowable.

We understand that you would like to exercise your appeal rights in this matter. According you or your authorized representative should come to this office in Room 113, City Hall to file the appeal on forms which are available here. A fee of \$15.00 shall be paid at this office at the time the appeal is filed.

Very truly yours,

A. Allan Soule  
Deputy Director of  
Building Inspection

AAS:m

Attested to be a true copy from the files of  
Building Inspections 2/23/96 Marge Schmuckel  
Zoning Administrator

CITY OF PORTLAND, MAINE  
IN THE BOARD OF APPEALS

July 22, 1968

TO WHOM IT MAY CONCERN:

The Board of Appeals will hold a public hearing in the Council Chamber at City Hall, Portland, Maine, on Thursday, August 1, 1968 at 4:00 p.m. to hear the appeal of Martin Bartley requesting an exception to the Zoning Ordinance to permit construction of a two family dwelling with attached two-car garage 44'8" x 64' at Lot 28 Alpine Road.

This permit is presently not issuable under Section 604.4.a of the Zoning Ordinance because the property is located in an R-3 Residential Zone where this use is not allowable.

This appeal is taken under Section 24 of the Zoning Ordinance which provides such variance may be granted only if the Board of Appeals finds that the strict application of the provisions of the Ordinance would result in undue hardship in the development of property which is inconsistent with the intent and purpose of the Ordinance; that there are exceptional or unique circumstances relating to the property that do not generally apply to other property in the same zone or neighborhood, which have not arisen as a result of action of the applicant subsequent to the adoption of this Ordinance whether in violation of the provisions of the Ordinance or not; that property in the same zone or neighborhood will not be adversely affected by the granting of the variance; and that the granting of the variance will not be contrary to the intent and purpose of the Ordinance.

All persons interested either for or against this appeal will be heard at the above time and place, this notice of required public hearing having been sent to the owners of property within 500 feet of the property in question as required by Ordinance.

BOARD OF APPEALS

Franklin G. Hinckley

Chairman

h

Attested to be a true copy from the files of Building  
Inspections 2/23/96 Mary Schmeckel  
Zoning Administrator

815 Ord 7/12/68  
Granted 8/1/68  
68/49

CITY OF PORTLAND, MAINE  
IN THE BOARD OF APPEALS

VARIANCE APPEAL

Martin Bartley, owner of property at Lot 23 Alpine Road  
under the provisions of Section 24 of the Zoning Ordinance of the City of Portland,  
hereby respectfully petitions the Board of Appeals for a variance from the provisions of  
said Ordinance to permit construction of a 2-family dwelling with attached 2-car garage  
44'8" x 64'. This permit is presently not issuable under Section 604.4.a of the Zoning  
Ordinance because the property is located in an R-3 Residential Zone where this use is  
not allowable.

LEGAL BASIS OF APPEAL: Such variance may be granted only if the Board of Appeals finds  
that the strict application of the provisions of the Ordinance would result in undue  
hardship in the development of property which is inconsistent with the intent and purpose  
of the Ordinance; that there are exceptional or unique circumstances relating to the  
property that do not generally apply to other property in the same zone or neighborhood,  
which have not arisen as a result of action of the applicant subsequent to the adoption  
of this Ordinance whether in violation of the provisions of the Ordinance or not; that  
property in the same zone or neighborhood will not be adversely affected by the granting  
of the variance; and that the granting of the variance will not be contrary to the intent  
and purpose of the Ordinance.

Martin L. Bartley  
APPELLANT

DECISION

After public hearing held August 1, 1968, the Board of Appeals finds that  
all of the above conditions do exist with respect to this property and that a  
variance should be granted in this case.

It is, therefore, determined that a variance from the provisions of the Zoning Ordinance  
should be granted in this case.

Franklin H. Hinckley  
Henry J. [unclear]  
[unclear]  
BOARD OF APPEALS

Attested to be a true copy  
from the files of Building  
Inspections 2/23/76  
Marge Schmuckel  
Zoning Administrator

DATE: August 1, 1968

HEARING ON APPEAL UNDER THE ZONING ORDINANCE OF Martin Bartley

AT Lot 28 Alpine Road

Public Hearing on the above appeal was held before the Board of Appeals.

BOARD OF APPEALS

Franklin G. Hinckley  
Ralph L. Young  
Harry M. Schwartz

	YES	VOTE	NO
	(x)		( )
	(x)		( )
	(x)		( )

Record of Hearing

Attested to be a true copy from the files of  
Building INSpections 2/23/96  
Marge Schmuckel  
Zoning Administrator



# APPLICATION FOR PERMIT

Class of Building or Type Third Class  
Portland, Maine

AUG 2 1968

CITY OF PORTLAND

To the INSPECTOR OF BUILDINGS, PORTLAND, MAINE 11, 1968

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

Location Lot 28 Within Fire Limits? Yes Dist. No. 1  
 Owner's name and address Martin Bartley, 625 Telephone 525-2317  
 Lessee's name and address \_\_\_\_\_ Telephone \_\_\_\_\_  
 Contractor's name and address G. H. H. Co. Telephone \_\_\_\_\_  
 Architect \_\_\_\_\_ Specifications \_\_\_\_\_ Plans \_\_\_\_\_ No. of sheets 5  
 Proposed use of building 2-car, cooling, closed breezeway, attached 2-car garage No. families 2  
 Last use \_\_\_\_\_ No. families \_\_\_\_\_  
 Material Frame No. stories 2 Heat F.H.W. Style of roof pitch Roofing Asph/Flt  
 Other buildings on same lot \_\_\_\_\_  
 Estimated cost \$ 25,000. Fee \$ 50.00

### General Description of New Work

To construct 2-car, cooling, 14'8" x 64', closed breezeway, attached 2-car garage  
Garage will be fireproofed where required by law with 1/2" concrete, fire door 1-5/4" solid core door.

This application is preliminary to get settled the question of zoning appeal. In the event the appeal is sustained the applicant will furnish complete information, cost of work and pay legal fee.

Appeal sustained 8/1/68

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor. PERMIT TO BE ISSUED TO contractor

### Details of New Work

Is any plumbing involved in this work? YES Is any electrical work involved in this work? YES  
 Is connection to be made to public sewer? yes If not, what is proposed for sewage? \_\_\_\_\_  
 Has sewer tank notice been sent? \_\_\_\_\_ Form notice sent? Yes  
 Height average grade to top of plate 14' Height average grade to highest point of roof 25'  
 Size, front 64' depth 14'8" No. stories 2 solid or filled land? rock earth or rock earth  
 Material of foundation concrete Thickness, top \_\_\_\_\_ bottom \_\_\_\_\_ cellar yes  
 Kind of roof pitch Rise per foot 5" Roof covering asphalt  
 No. of chimneys 1 Material of chimneys brick of lining tile Kind of heat oil fuel oil  
 Framing Lumber—Kind space Dressed or full size? dr Corner posts 4x6 Sills 4x6  
 Size Girder 6x10 Columns under girders 4x4 Size 3" Max. on centers 7'6"  
 Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.  
 Joists and rafters: 1st floor 2x10, 2nd 2x10, 3rd \_\_\_\_\_, roof 2x6  
 On centers: 1st floor 16", 2nd 16", 3rd \_\_\_\_\_, roof 24"  
 Maximum span: 1st floor 15'1", 2nd 15'1", 3rd \_\_\_\_\_, roof 18'  
 If one story building with masonry walls, thickness of walls? \_\_\_\_\_ height? \_\_\_\_\_

### If a Garage

No. cars now accommodated on same lot \_\_\_\_\_, to be accommodated 2 number commercial cars to be accommodated \_\_\_\_\_  
 Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? no

APPROVED:  
C. H. H. Co. 8/12/68 - C. H. H. Co. 2/1 letter

### Miscellaneous

Will work require disturbing of any tree on a public street? no  
 Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto are observed? yes  
 Martin Bartley

Alleged to be a true copy from the files of Building Inspections 2/23/96 - Manager of Administration

Signature of owner By: Martin L. Bartley

A.P.- Lot 28, Alpine Road

August 2, 1968

Martin Bartley  
213 Auburn Street

Dear Mr. Bartley:

Permit to construct 2-family dwelling 44'8" x 64', enclosed breezeway, attached 2-car garage at the above named location is being issued subject to plans received with the application and in compliance with Building Code restrictions; as follows:

1. The corner posts are to extend in one piece with 18 inch lap splices allowed from the solid sill or from the first floor shoe (sole plate) where a box sill is allowed to the double plate which supports the roof rafters at the eave level. The second floor studs in the exterior walls are to extend down to the double 2x4 inch plate upon which the second floor joists rests with the second floor joists being spiked to these studs.
2. Rafters will need to be double which abut the hip rafters (four in all). These rafters are located on the end of the ridgeboard. Ceiling joists both front and rear of the living room area and the bedroom area on the rear are to be tied to the hip rafters above.
3. A curb at least six inches high will be needed from the garage area to the stairs that lead to the basement area (or an equivalent approved arrangement shall be provided) to prevent the free flow of gasoline fumes into the dwelling house part.
4. It is suggested that a solid core door at least 1-3/4" thick would be desirable at the top of the stairs from the kitchen on the second floor to give added fire protection to these living quarters.

Very truly yours,

A. Allan Soule  
Deputy Director of Building Inspection

AAS:m

Attested to be a true copy from the files of  
Building Inspections 3-33-96 Marge Schmuck  
Zoning Administrator



# APPLICATION FOR AMENDMENT TO PERMIT

Amendment No. #1

Portland, Maine, December 17, 1968

PERMIT ISSUED

DEC 18 1968

CITY OF PORTLAND

INSPECTOR OF BUILDINGS, PORTLAND, MAINE

I, the undersigned hereby applies for amendment to Permit No. 68/746... pertaining to the building or structure comprised original application in accordance with the Laws of the State of Maine, the Building Code and Zoning Ordinance of the City of Portland, plans and specifications, if any, submitted herewith, and the following specifications:

Location Lot 28 Alpine Road (115) Within Fire Limits? ..... Dist. No. ....

Owner's name and address Martin Bartley, 115 Alpine Road Telephone .....

Lessee's name and address ..... Telephone .....

Contractor's name and address owner Telephone .....

Architect ..... Plans filed ..... No. of sheets .....

Proposed use of building Dwelling and garage No. families 2

Last use ..... No. families 2

Increased cost of work 200. 300. Additional fee 2.00

### Description of Proposed Work

To partition off room in basement for storage -  
Studs 2x4, 16" O.C., covered with plywood

### Details of New Work owner

Is any plumbing involved in this work? ..... Is any electrical work involved in this work? .....

Height average grade to top of plate ..... Height average grade to highest point of roof .....

Size, front ..... depth ..... No. stories ..... solid or filled land? ..... earth or rock? .....

Material of foundation ..... Thickness, top ..... bottom ..... cellar .....

Material of underpinning ..... Height ..... Thickness .....

Kind of roof ..... Rise per foot ..... Roof covering .....

No. of chimneys ..... Material of chimneys ..... of lining .....

Framing lumber—Kind ..... Dressed or full size? .....

Corner posts ..... Sills ..... Girt or ledger board? ..... Size .....

Girders ..... Size ..... Columns under girders ..... Size ..... Max. on centers .....

Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.

Joists and rafters: 1st floor ....., 2nd ....., 3rd ....., roof .....

On centers: 1st floor ....., 2nd ....., 3rd ....., roof .....

Maximum span: 1st floor ....., 2nd ....., 3rd ....., roof .....

Approved:

D.K. - 12/17/68 - Adh.

Signature of Owner Martin Bartley

Approved: [Signature]

Inspector of Buildings.

INSPECTION COPY

CS. 103

Attested to be a true copy from the files of Building Inspections 2/23/96  
Wanda Schmuckel  
Zoning Administrator



(COPY)

CITY OF PORTLAND, MAINE  
Department of Building Inspection



# Certificate of Occupancy

LOCATION **Lot 28 Alpine Road**  
Date of Issue **December 31, 1968**

Issued to **Martin Bartley**  
**115 Alpine Road**

This is to certify that the building, premises, or part thereof, at the above location, built—altered—changed as to use under Building Permit No. **68/746**, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

**Entire**

APPROVED OCCUPANCY

**Two family dwelling with  
attached two car garage.**

Limiting Conditions:

This certificate supersedes  
certificate issued

Approved:

(Date)

Inspector

Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.

Attested to be A true Copy from the files of Building  
Inspection 2/23/96 Mary Schmuckel  
Zoning Administrator