

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Jeff Levine
Director Planning & Urban Development



RECEIVED

JUL 15 2013

CITY OF PORTLAND
ZONING BOARD OF APPEALS
Conditional Use Appeal Application

Dept. of Building Inspections
City of Portland Maine

Applicant Information:

FREDERICK A. WRITT

NAME

BUSINESS NAME

93 Mast Rd

ADDRESS

FALMOUTH, ME 04105

207-653-5347

TELEPHONE #

OWNER

APPLICANT'S RIGHT, TITLE OR INTEREST
(eg; owner, purchaser, etc)

R-2

CURRENT ZONING DESIGNATION

Subject Property Information

Lot #2 MORNINGSTAR LN

PROPERTY ADDRESS

385A-A-032

CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (if different)

NAME

ADDRESS

CONDITIONAL USE AUTHORIZED BY

SECTION 14 - 78^(1/2)

TYPE OF CONDITIONAL USE
PROPOSED:

ACCESSORY DWELLING UNIT
in single family home

EXISTING USE OF PROPERTY:

STORAGE BUILDING

STANDARDS: Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use;
2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and
3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

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

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

F A Writt

SIGNATURE OF APPLICANT

DATE

7/15/13

To: Zoning Board of Appeals
Date: 7.15.2013
Re: Barn on Lot #2,
Morningstar Lane, 04103

Appellants: Frederick A. & Colleen R. Witt
93 Mast Rd.
Falmouth, ME 04105
Phone: 207-653-5347

Statement of Intent:

Prior to submitting fully detailed plans to the Planning Division for Level #1 Site Plan Review, we are appealing to the board for the conditional use of an Accessory Dwelling Unit to be built as part of the renovations to the existing timber framed barn structure. As it is a 30 year old storage building without any utilities, we understand that if approved, the change of use requires full permitting and that the building shall be brought up to existing code requirements including NFPA 13-D sprinklers in order to be habitable as a residential dwelling.

Square footage of proposed A.D.U.:	700 sq. ft. (400 minimum)
Percentage of total proposed living space:	27.8% (30% maximum)
Total proposed living space:	2512 sq. ft.
Total lot area:	13,196 sq. ft. (10,000 minimum)

Our building design will transform a simple but rock-solid gambrel structure into high-quality living space with a low-maintenance exterior façade relating to the Shingle Style, using a mix of dormers, porches, premium Maine white cedar shingles, windows and doors with broad flat trim & casings, a touch of stained glass and a purposeful asymmetrical vernacular.

Our goals in doing so are many:

- Downsize from our current West Falmouth home by 30%, while transforming the excess area in the barn into an additional dwelling unit.
- To provide a 'closer to town' home for my Mother-in Law, who is 80 years old.
- As we are both self-employed, and our principal business area is Greater Portland, this brings us closer to our market, saving fuel expense and transit time by a factor of .75! Being able to walk to work for the first time in 30 years will be a huge plus.
- Working with the existing siting of the barn to achieve the highest and best possible use of what is a non-traditional, low-value structure sited prominently within this new residential subdivision.
- Bring the forest feeling with us by doing multiple varietal tree, shrub and flower bed plantings around the lot as soon as possible.

Insofar as we know, the plans contained herein conform to the conditional use requirements as detailed under the R-2 Zoning Rules without exception.

If approved, we are asking for a full 2-year period to implement this project, as allowed by code.

Sincerely:



Frederick A. Witt



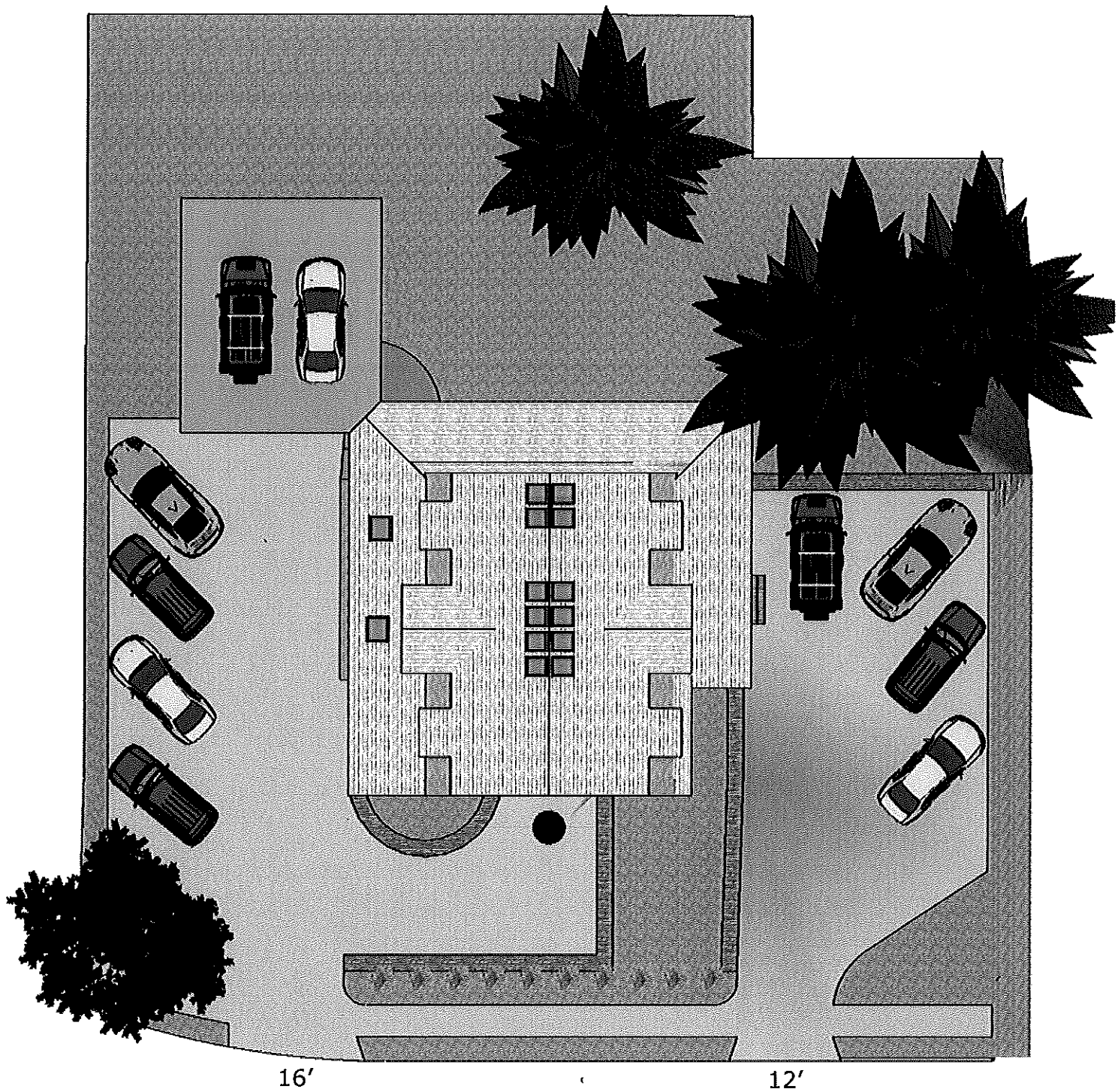
Colleen R. Witt

Addendum to Cover Letter—ZBA

Addressing the Standards Issue:

Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines that:

- 1.) ***“There are unique or distinctive characteristics or effects associated with the proposed conditional use;”*** The conditional use of having an accessory dwelling unit as part of the overall project makes best use of an existing non-traditional structure that is substantially larger (2160 sq. ft.) than the average size of a new home (1728 sq. ft.) in the nearest recent subdivisions. It will provide quality housing for one or two residents in addition to improving the efficiency of using the existing structure and property.
- 2.) ***“There will be an adverse impact upon the health, safety and welfare of the public or the surrounding area;”*** None whatsoever. As Morningstar Lane is a very small 10 lot subdivision ending in a cul-de-sac, the daily traffic count will be in the lowest percentile imaginable. Due to the nature and location of the property, addition of the accessory dwelling unit will cause no visual obstruction to vehicular and pedestrian traffic. Contrary to having an adverse impact, the addition of an accessory dwelling improves the public welfare by adding a desirable, modern, private, clean, and safe rental dwelling to an area of the city in which such rental dwellings are difficult to come by.
- 3.) ***“Such impact differs substantially from the impact which would normally occur from such a use in that zone.”*** The foreseeable impact of the accessory dwelling unit does not differ substantially from the impact of any other accessory dwelling unit in the zone that has been designed to house one or two residents.



16'

12'

Width of parking area: 30'

Width of Parking Area: 26'

Total number of cars allocated: 10

Plot Plan with Parking Layout



April 1, 2012 to 2013

Tax Map Index: <http://www.portlandoregon.com/txmap.htm>

Index Number - QSSW

PC01

QSSW

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QSSW

QSSW

TRUSTEE'S DEED

KNOW ALL BY THESE PRESENTS, that **RONALD J. DORLER, TRUSTEE OF THE MORNINGSTAR REAL ESTATE TRUST**, a trust under the laws of the State of Maine with a mailing address of 220 Riverside Industrial Parkway, Portland, Maine ("Grantor"), for consideration paid, GRANTS to **FREDERICK A. WRITT** and **COLLEEN R. WRITT** as joint tenants and not as tenants-in-common, certain real estate located in the City of Portland, Cumberland County, Maine, which is more particularly described in Exhibit A attached hereto and made a part hereof.

This conveyance is made SUBJECT, HOWEVER, to real estate taxes which are not yet due and payable, which, by acceptance hereof, Grantee assumes and agrees to pay.

This conveyance is also made SUBJECT to and with the benefit of the covenants, conditions, restrictions and easements, set forth in that certain General Declaration of Covenants, Restrictions and Easements dated July 7, 2008, and recorded in the Cumberland County Registry of Deeds in Book 26193, Page 1, as the same may be further amended and/or supplemented from time to time (the "Declaration").

This conveyance is also made SUBJECT to and with the benefit of the terms and conditions of the Bylaws of the Morningstar Lane Property Owners Association, so long as they shall be in effect, as the same may be amended from time to time.

This conveyance is also made SUBJECT to and with the benefit of such state of facts, notes and conditions as are shown on that certain plan attached hereto as Exhibit B and made a part hereof and on that certain amended plan entitled "Final Subdivision Plan: Morningstar Lane: Summit Street, Portland, Maine: Prepared for Morningstar Real Estate Trust: 9 Craigie Street, Portland, Maine 04102," prepared by Stantec Consulting Services, Inc., dated May, 2007, last revised March 31st, 2008, and recorded in the Cumberland County Registry of Deeds in Plan Book 209, Page 104 (the "Plan"), and any accompanying plans submitted to the City of Portland in connection with the approval for the Morningstar Lane Subdivision, as the same may be amended from time to time. Without limiting the foregoing, Grantor expressly reserves title to "Morningstar Lane" as shown on said Plan.

This conveyance is also made SUBJECT to any and all rights, restrictions and encumbrances of record.

MAINE REAL ESTATE TAX PAID

Exhibit A

A certain lot or parcel of land, with any buildings thereon, situated on a proposed public way known as Morningstar Lane in the City of Portland, County of Cumberland and State of Maine, being Lot 2 as depicted upon plan entitled "Morningstar Land, Summit Street, Portland, Maine" prepared for Morningstar Real Estate Trust, 9 Caraigie Street, Portland, Maine 04012" dated June 6th, 2008, recorded July 13th, 2009, Cumberland County Registry of Deeds, Plan Book 209, Page 204.

EXCEPTING AND RESERVING to the Grantor herein, however, the fee interest in and to the road depicted on the Plan as Morningstar Lane, which it dedicates and offers and intends to convey to the City of Portland.

The above-described premises are conveyed subject to the rights, easements, covenants, conditions, restrictions and obligations set forth in the following instruments recorded in the Cumberland County Registry of Deeds:

1. For Lot 1: A Drainage Easement over Lots 1 and 2 from Virginia D. Elliott, Trustee of The Morningstar Real Estate Trust to the Morningstar Lane Property Owners Association recorded in the Cumberland County Registry of Deeds and a Drainage Easement from Virginia D. Elliott, Trustee of The Morningstar Real Estate Trust to G. Steven and Amanda C. Rowe, dated July 7, 2008 and recorded in the Cumberland County Registry of Deeds in Book 26193, Page 24.
2. For Lot 2: A Drainage Easement over Lots 1 and 2 from Virginia D. Elliott, Trustee of The Morningstar Real Estate Trust to the Morningstar Lane Property Owners Association recorded in the Cumberland County Registry of Deeds; a Drainage Easement from Virginia D. Elliott, Trustee of The Morningstar Real Estate Trust to G. Steven and Amanda C. Rowe, dated July 7, 2008 and recorded in the Cumberland County Registry of Deeds in Book 26193, Page 24; and a Drainage Easement over Lots 2, 3 and 4 from Virginia D. Elliott, Trustee of The Morningstar Real Estate Trust to the Morningstar Lane Property Owners Association recorded in the Cumberland County Registry of Deeds.
3. For Lot 3: A Drainage Easement over Lots 2, 3 and 4 from Virginia D. Elliott, Trustee of The Morningstar Real Estate Trust to the Morningstar Lane Property Owners Association recorded in the Cumberland County Registry of Deeds.
4. For Lot 4: A Drainage Easement over Lots 2, 3 and 4 from Virginia D. Elliott, Trustee of The Morningstar Real Estate Trust to the Morningstar Lane Property Owners Association recorded in the Cumberland County Registry of Deeds.
5. For Lots 5 and 6: A Drainage Easement over Lots 5 and 6 from Virginia D. Elliott, Trustee of The Morningstar Real Estate Trust to the Morningstar Lane Property Owners Association recorded in the Cumberland County Registry of Deeds; and a Sewer Easement over Lots 5 and 6 from Virginia D. Elliott, Trustee

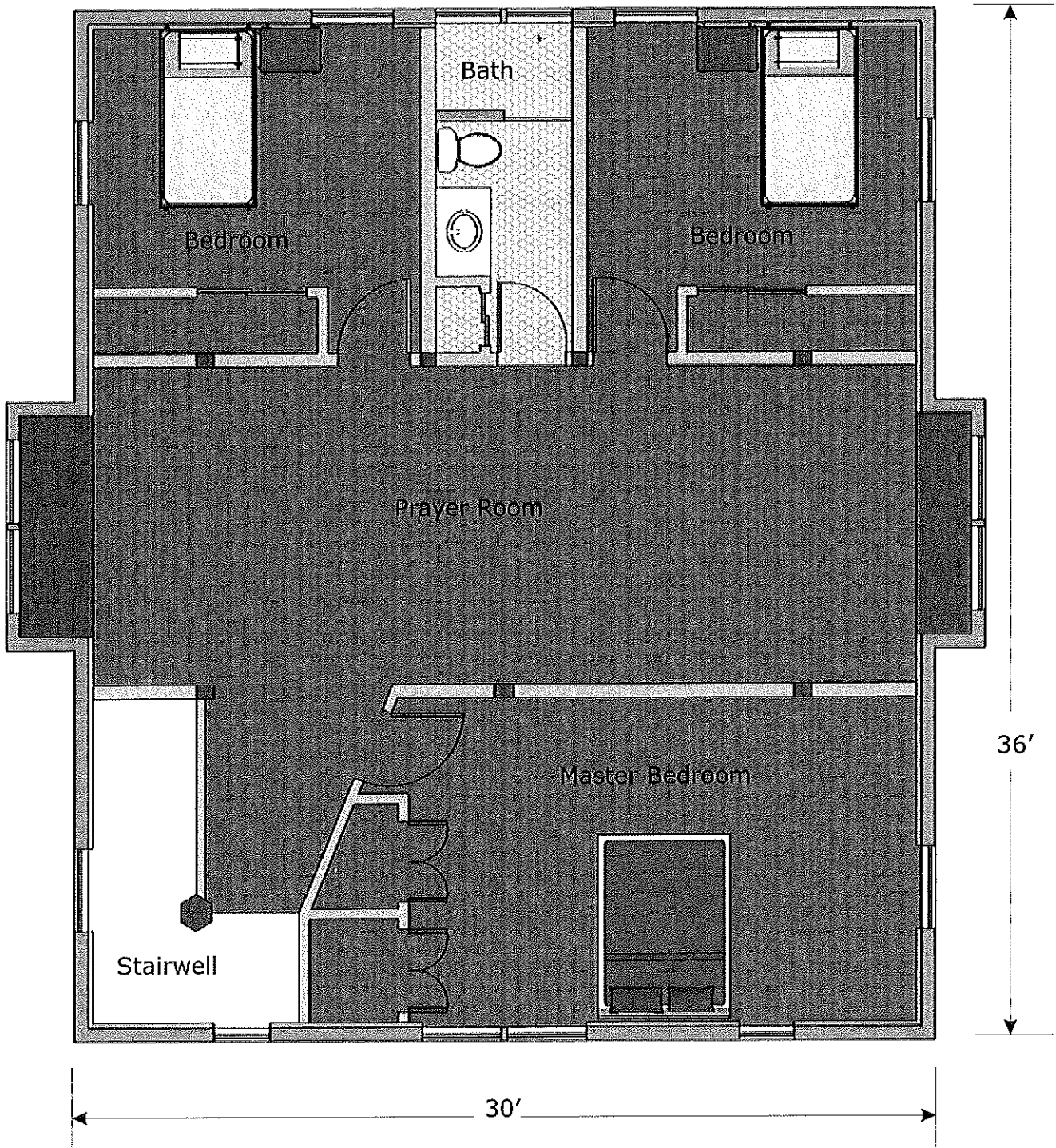
Exhibit B

For each Lot, this Exhibit will consist of a Plot plan for the Lot, drawn to scale. In addition:

- For Lots 5 through 10, that Plot plan shall specify the location of the stream buffer or wetland on that Lot, as required by DEP Tier 1 Approved Special Condition.
- For Lots 5 through 10, the Plot plan shall show the location of FENO markers placed on the Lot in accordance with Tree Save & Vegetation Protection Note 2 on the recording Plan.
- For Lots 1, 2, 3, and 4, the Plot plan will repeat recording Plan Tree Save/Protection Areas Note 1 regarding the Tree Save/Protection Areas.
- For Lots 5 through 10, the Plot plan will repeat recording Plan Tree Save & Vegetation Protection Note 3 regarding the Tree Save/Vegetation Protection Areas.

The Plot plan for each Lot will show any individual tree saves on that Lot that become part of the Tree Save/Protection Areas as defined by Section 2.13 of the General Declaration of Restrictions, Covenants and Easements.

Received
Recorded Register of Deeds
Jun 04, 2013 02:23:06P
Cumberland County
Pamela E. Lovley



2nd Floor Plan

The 2nd floor is part of the Main Dwelling Unit only.