

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Jeff Levine
Director Planning & Urban Development



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APR 25 2014

CITY OF PORTLAND
ZONING BOARD OF APPEALS Dept. of Building Inspections
Conditional Use Appeal Application City of Portland Maine

Applicant Information:

FREDERICK A. + COLLEEN R. WRITT
NAME

-
BUSINESS NAME

93 MAST RD
ADDRESS
FALMOUTH, ME 04105

207-653-5347
TELEPHONE #

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

R-2
CURRENT ZONING DESIGNATION

EXISTING USE OF PROPERTY:

STORAGE BUILDING

Subject Property Information

15 MORNINGSTAR LN
PROPERTY ADDRESS

385A A032
CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (if different)

NAME SAME

ADDRESS

CONDITIONAL USE AUTHORIZED BY

SECTION 14 - 78(a)(2)

TYPE OF CONDITIONAL USE

PROPOSED:
new single family with an
A.D.U.

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.

[Signature]
SIGNATURE OF APPLICANT

4/24/14
DATE

To: Zoning Board of Appeals
Date: 4.24.2014

Appellants: Frederick A. & Colleen R. Writt
93 Mast Rd.
Falmouth, ME 04105

Re: 15 Morningstar Lane, 04103 (Lot #2)

Phone: 207-653-5347

Statement of Intent:

We came before this board on August 1, 2013 seeking approval for the inclusion of an A.D.U. within our soon-to-be-renovated property at the above mentioned address. At that time it was clearly stated both in the application and in testimony that the submitted plans were conceptual, and that approval for an A.D.U. was being sought prior to going to the expense of designing and submitting final, concise plans for Level 1 Site Plan Review prior to the issuance of a building permit.

We were granted approval by unanimous vote.

Certain concerns were raised over parking, screening and vegetation issues and were answered to the satisfaction of the board with the exception of being granted permission to have a 2nd curb cut to service the entrance of the A.D.U. . Understanding this, with Z.B.A. permission in hand, I made my formal request for the 2nd curb cut. Despite my appeal, that permission was denied. We moved on.

The drawings and plans before you today are the final version that has been submitted on 4.7.2014 for Level 1 Site Plan Review and the issuance of a building permit. They address all the concerns of the Board, but the layout and configuration of the A.D.U. had to be amended to address proper access, egress and circulation within the limitation of having only one collective driveway and parking area. In so doing, the size & orientation of the unit has changed, but still falls within the A.D.U. Requirements of the R-2 Zone as specified in 14-78 (a)(2); see below:

	<u>ZBA Mtg. on 8.1.2013</u>	<u>Today</u>
Area of proposed A.D.U.:	700 sq. ft. (400sq. ft. minimum)	530.6 sq. ft
% of total proposed living space:	27.8% (30% maximum)	23.2%
Total proposed living space:	2512 sq. ft.	2,280 sq. ft.
Total lot area:	13,196 sq. ft. (10,000 minimum)	13,341 sq. ft.*

*(The lot size changed due to revisions in the Morningstar Lane Subdivision Recording PLAT, addressing the issue of the right of way location and an error in positioning the barn on the drawing.)

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. as-is) 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.

As there are no substantive changes to our previous approved request, and that our submitted plans fully address the issues of concern expressed by the board and conform to the conditional use requirements as detailed under the R-2 Zoning Rules 14-78 (a)(2) without exception, we respectfully request your approval to proceed with our project as submitted without further delay.

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

Sincerely:



Frederick A. Writt

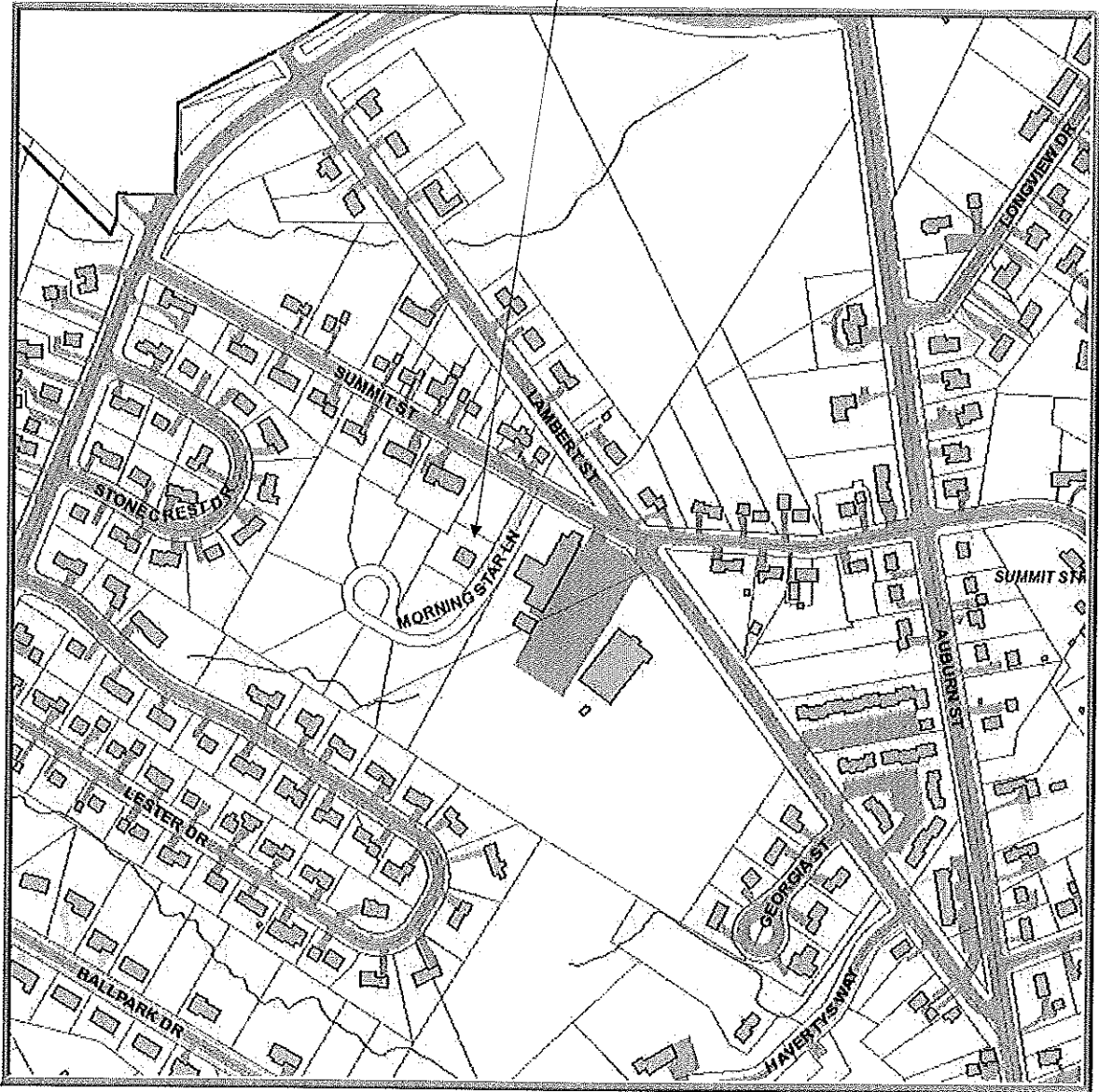


Colleen R. Writt

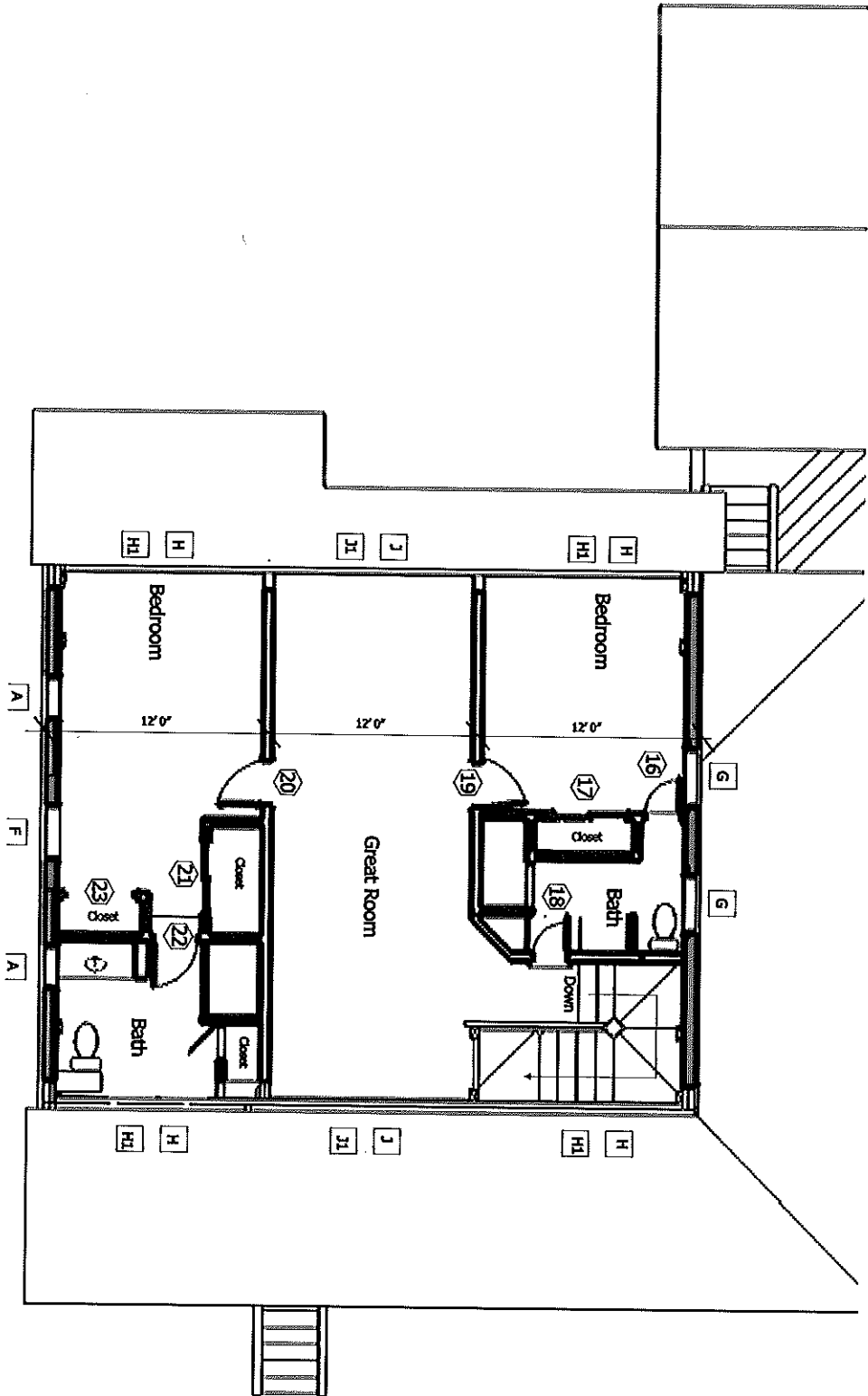
Locus Map of:

15 Morningstar Lane
Portland, ME 04103

CBL: 385A A032



Second floor layout



3

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

Doc# 31143 Bk:30702 Pg: 83

IN WITNESS WHEREOF, Ronald J. Dorler has caused this instrument to be executed in his capacity as Trustee on this 12 day of May, 2013.

WITNESS:

RONALD J. DORLER, TRUSTEE OF THE MORNINGSTAR REAL ESTATE TRUST

[Signature]

Ronald J. Dorler
Ronald J. Dorler, Trustee of the Morningstar Real Estate Trust

State of Maine
Cumberland, ss:

5/12, 2013

Then personally appeared the above-named Ronald J. Dorler, Trustee of The Morningstar Real Estate Trust, and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

[Signature]
Notary Public/Maine Attorney at Law
Printed Name: _____

James B. Burns
Notary Public, Maine
My Commission Expires October 25, 2015

SEAL

Residence & A.D.U. at 15 Morningstar Lane, Portland, ME 04103

Owners: Frederick A. & Colleen R. Writt
Contact Telephone #: 207-653-5347

Lot #2, 15 Morningstar Lane

As-is photos of barn

30' x 36'

Modern (30 year old) Post and Beam construction

Full drive in basement

Clear-span interior, all three levels

