# CITY OF PORTLAND, MAINE

# **ZONING BOARD OF APPEALS**

Philip Saucier-chair Sara Moppin Jill E. Hunter Gordan Smith-secretary William Getz

September 7, 2010

Janet Hunnewell 28 Whaleboat Road Portland, ME 04103

RE:

24-28 Whaleboat Road

CBL:

393 I003

ZONE:

R-2

Dear Ms. Hunnewell:

At the September 2, 2010 meeting, the Zoning Board of Appeals voted 4-0 to deny the practical difficulty appeal to reduce the side yard setback for the proposed addition. The Zoning Board of Appeals also voted 4-0 to grant the conditional use appeal to add an accessory dwelling unit with the condition that the addition not exceed 981 square feet. I am enclosing a copy of the Board's decisions.

I am also enclosing a receipt for the payment of the legal ad, notices and processing fee for the appeals. The fees for both of your appeals are paid in full.

Since the Board denied your practical difficulty appeal to reduce the side yard setback, you will need to submit new building plans for your building permit that meet the zoning requirements of the R-2 zone. The change of use permit for the conditional use must be issued within six months of the date of the hearing, September 2, 2010, referenced under section 14-474(f), or the Zoning Board approval will expire.

I have also included an Application for Administrative Authorization. Section 14-78(a)(2)(e) states that the project is subject to article V which is siteplan review. The Application for Administrative Authorization is a request to exempt your project from complete or partial siteplan review. If you have any questions about this application, please feel free to contact Barbara Barhydt, Development Review Services Manager, at 874-8699.

Appeals from decisions of the Board may be filed in Superior Court, pursuant to 30-A M.R.S.A. section 2691 (2) (G).

Should you have any questions please feel free to contact me at 207-874-8709.

Yours truly, Ann B. Machado Zoning Specialist (207) 874-8709

Cc. file

# CITY OF PORTLAND, MAINE **ZONING BOARD OF APPEALS**

R-2 Residential Zone Accessory Unit

## Conditional Use Appeal

### **DECISION**

Date of public hearing: September 2, 2010

Name and address of applicant:

Janet Hunnewell & Derek Webb

28 Whaleboat Road

South Portland, ME 04106

Location of property under appeal: 28 Whaleboat Rd.

#### For the Record:

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

Janet Hunnewell

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

plans + testimony submitted in practical difficulty appeal.

# Findings of Fact and Conclusions of Law:

Applicants are proposing to add an accessory dwelling unit to their single family home in which they reside. The gross floor area of the principal building is 3,272 sq. ft. The proposed accessory unit would be 528 sq. ft. The lot area is 14,155 sq. ft.

- A. Conditional Use Standards pursuant to Portland City Code §14-78(a)(2):
- 1. The accessory dwelling unit is within the building and clearly subordinate to the principal dwelling and is for the benefit of homeowners or tenants.

Satisfied \_\_\_\_ Not Satisfied \_\_\_\_ Reason:

Per archetectual Drawings

2. The accessory unit shall be no more than thirty (30) percent of the gross floor area of principal building and shall have a minimum floor area four hundred (400) square feet; gross floor area shall exclude any floor area that has less than two-thirds of its floor-to ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit.

Satisfied Not Satisfied \_\_\_\_

Reason: 30% of 3276 ft = 981 59 ft.

Revised plans not to exceed 981 59 ft.

3. Lot area shall be eight thousand (8,000) square feet for single-family dwellings in existence as of May 1, 1984, and lot area shall be ten thousand (10,000) square feet for single-family dwellings constructed after May 1, 1984.

Satisfied \_\_\_\_ Not Satisfied \_\_\_\_

Reason:

Per plans

floor.	4. There shall be no open outside stairways or fire escapes above the ground			
	Satisfied 4	Not Satisfied		
•	Reason:			

5. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling.

Satisfied 4 Not Satisfied \_\_\_\_

Reason:

Per plans submitted in the original drawing

6. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

Satisfied \_\_\_\_ Not Satisfied \_\_\_\_

existing parking is addition complance

except	7. Either the accessory to for bona fide temporary a	unit or principal unit shall be occupied by the lot owner, absences.
	Satisfied 4 N	ot Satisfied
	Reason:	
parkin	8. Parking shall be proving space per new unit (14-	rided as required by division 20 of this article: 1 off-street 332(a)(2)).
	Satisfied 4 N	ot Satisfied
	Reason: Existing	
В.	Conditional Use Standar	ds pursuant to Portland City Code §14-474(c)(2):
propos	<ol> <li>There are unique or d sed conditional use.</li> </ol>	listinctive characteristics or effects associated with the
FF-		o 4
	Reason and supporting f	facts:

2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.

No 4 Yes

Reason and supporting facts:

No indication per plans and testimony

3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

No 4 Yes \_\_\_

Reason and supporting facts:

No indications

Conclusion: (check one)
Option 1: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application.
Under the Board finds that all of the standards (1 through 7) described in section A above have been satisfied, and that while not all of the conditions (1 through 3) described in section B above are present, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:  Hay new addition will not exceed 981 sq ft.
Option 3: The Board finds that not all of the standards (I through 7) described in section A above have been satisfied and/or that all of the conditions (I through 3) described in section B above are present, and therefore DENIES the application.
Please note that, pursuant to Portland City Code 14-78(a)(2)(e), if approved the project shall be subject to article V (site plan) of this chapter for site plan review and approval.
Dated: 9/7//

O:\OFFICE\FORMS\R-2 conditional use accessory unit hunewell.doc

# CITY OF PORTLAND, MAINE ZONING BOARD OF APPEALS

#### APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, September 2, 2010 at 6:30 p.m. on the second floor in room 209 at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

#### 1. New Business:

#### A. Practical Difficulty Variance Appeal:

24-28 Whaleboat Road, Janet L. Hunnewell & Derek S. Webb, owners, Tax Map 393, Block I, Lot 003, R-2 Residential Zone: The applicants are proposing to build a twenty-two foot by twenty-four foot addition to accommodate a handicapped mother. The appellants are requesting a variance for the side setback from the required twelve feet to ten feet [section 14-80(d)(3)]. Representing the appeal are the owners.

#### B. Conditional Use Appeal:

24-28 Whaleboat Road, Janet L. Hunnewell & Derek S. Webb, owners, Tax Map 393, Block I, Lot 003, R-2 Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-78(a)(2) to add an accessory dwelling unit to their single family dwelling. Representing the appeal are the owners.

#### C. Practical Difficulty Variance Appeal:

27 Sherman Street, Michael DeAngelis, owner, Tax Map 036, Block E, Lot 015, R-6 Residential Zone: The applicant is proposing to add a five foot by twenty foot porch to connect the existing back and side porch. The appellant is requesting a variance for the side setback from the required ten feet to nine feet [section 14-139(1)(d)(3)]. The appellant is also requesting a variance for the rear setback from the required twenty feet to ten feet [section 14-139(1)(d)(2)]. Finally the appellant is requesting an increase in the maximum allowable lot coverage. Section 14-139(1)(e) gives the maximum allowable lot coverage as fifty percent. Presently, the permitted structure on the lot covers 52.52% of the lot. The appellant is requesting a variance to increase the lot coverage to 54.63%. Representing the appeal is the owner.

#### 2 Adjournment

Members Present: Philip Soucier, Bill Getz, Jill Hunty, Sara Moppin CITY OF PORTLAND, MAINE

Members Absort: Gordon Smith

Called to order IT 6:30pm

APPEAL AGENDA

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AVAILED of the lot. The appellant is requesting a variance to increase the lot coverage to 54.63%. meeting Representing the appeal is the owner.

2. Adjournment: 7:30 pm



# Planning and Development Department Zoning Board of Appeals Conditional Use Appeal Application

Applicant Information:	Subject Property Information:
Janet Hunnewell	28 Whaleboat Bd
Name	Property Address
	393 1003 24-28
Business Name	Assessor's Reference (Chart-Block-Lot)
28 Whale boat Rd	W 10 20 10 100 11
Portland 04103	Property Owner (if different):
Portland 04103	Same
749-6176 523-	Name Same
Telephone Fax	Address
Applicant's Right, Title or Interest in Subject Property:	June
owner	same
(e.g. owner, purchaser, etc.):	Tetephone Pax
Current Zoning Designation: Single family	Conditional Use Authorized by Section 14 78(4)(2)
Existing Use of Property:	Type of Conditional Use Proposed:
primary home	I want to add a handi-cap
	addition for my mom. It would
	include a small kitchen, buth,
	belicom and livingroom.
itendards:	O
Upon a showing that a proposed use is a conditional granted unless the board determines that:	use under this article, a conditional use permit shall be
(a) There are unique or distinctive characteristics or	effects associated with the proposed conditional use;
(b) There will be an adverse impact upon the health,	safety, or welfare of the public or the surrounding area; and
(c) 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.

he undersigned hereby makes application for a conditional use permit as above described, and certified that il information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

ignerate of Applicant Date

August 12, 2010

RECEIVED

Attn: Zoning Board of Appeals 389 Congress St Room 315 Portland, Maine 04103

AUG 2 4 2010

Dept. of Building Inspections City of Portland Maine

To Whom It May Concern:

My name is Janet Hunnewell, I currently live at 28 Whaleboat Rd, in Portland. I recently purchased this house with my fiancé, Derek Webb, on June 15th, 2010.

I would like to add a handicap addition onto my house, for my mom Linda Parker. My mom has MS and is in wheelchair fulltime. Her current situation is not a healthy one, to prevent her from having to go into a nursing home and to keep some of her independence, I am asking for an approval to build her a handicap addition. The addition would include a small kitchen, bathroom, living room and bedroom.

I am confident that the addition would meet the conditions in the city ordinance, under Chapter 14, section 14-78 ((a)(2):

- 1. The addition will not be more than 30% of the gross floor area of the principle building; the square footage of the first floor is 1836sf (500+400+936), the second floor is 1436sf (500+936) and the addition is 528sf, so the total is 3800sf. The accessory dwelling unit would be 13.89% of the gross floor area.
- 2. The lot size of the existing land is more than 10,000 sq ft, it is 14155 sq ft.
- 3. There are no open outside stairways or fire escapes above the ground floor (please refer to the addition plans).
- 4. The new addition would be compatible with the architectural style of the existing home, and it would preserve the single family appearance of the home, please refer to the plans for the addition. The addition flows nicely with the existing home.
- 5. The principal dwelling is occupied by me and Derek Webb, the owners.
- 6. There is ample off street parking at the existing dwelling, there is a 2 car garage and 4 parking spaces in the driveway.

This is a very important step in her life and I appreciate your time and consideration in this matter, as does my mom. We are both looking forward to the next step!

Thank-you,

Innet Hunnewell

Addendum to coversheet for conditional use appeal

#### Standards:

Jpon s showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted inless the board determines that:

(a) There are unique or distinctive characteristics or effect's associated with the proposed conditional use;

There are no unique or distinctive characteristics of effects associated with the proposed conditional use.

(b) There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area;

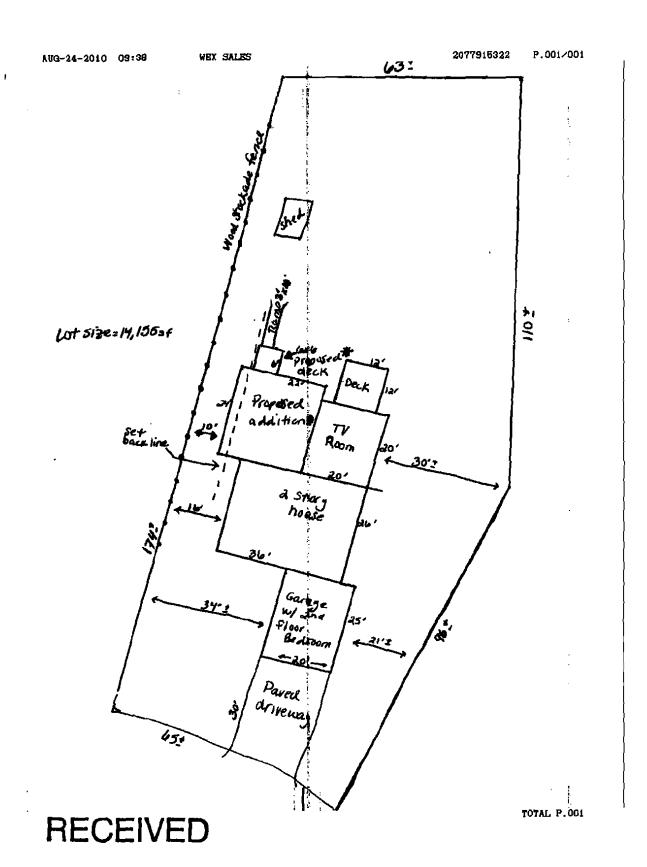
If the conditional use is granted, there will be no adverse impact on the health, safety or welfare of the public or surrounding area. If anything, the proposed conditional use will enhance the health and welfare of my mom, and it will enhance the welfare of the surrounding area.

(c) Such impact differs substantially from the impact which would normally occur from such a use in that zone.

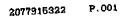
The impact from the proposed conditional use would not differ from the "norm" from what the zone is used for. The zone is residential use, and the addition of an "handicap in-law addition" would be in line with residential use.

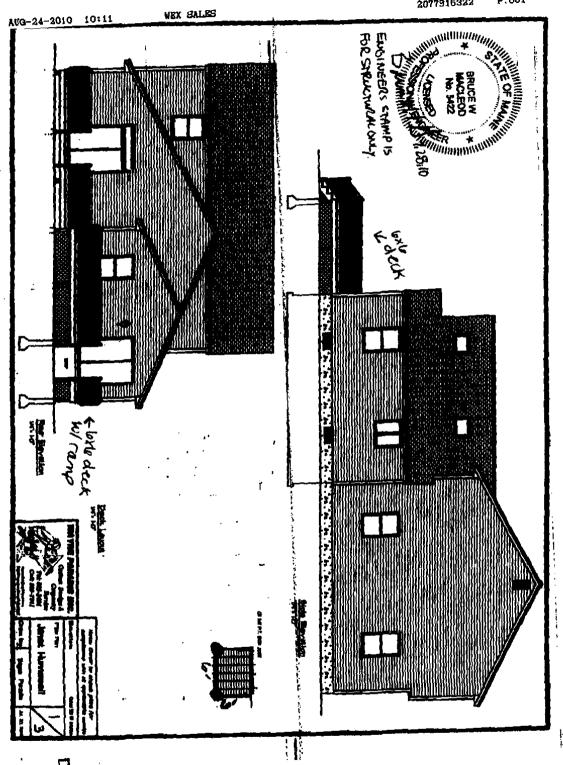


AUG 18 2010



AUG 2 4 2010

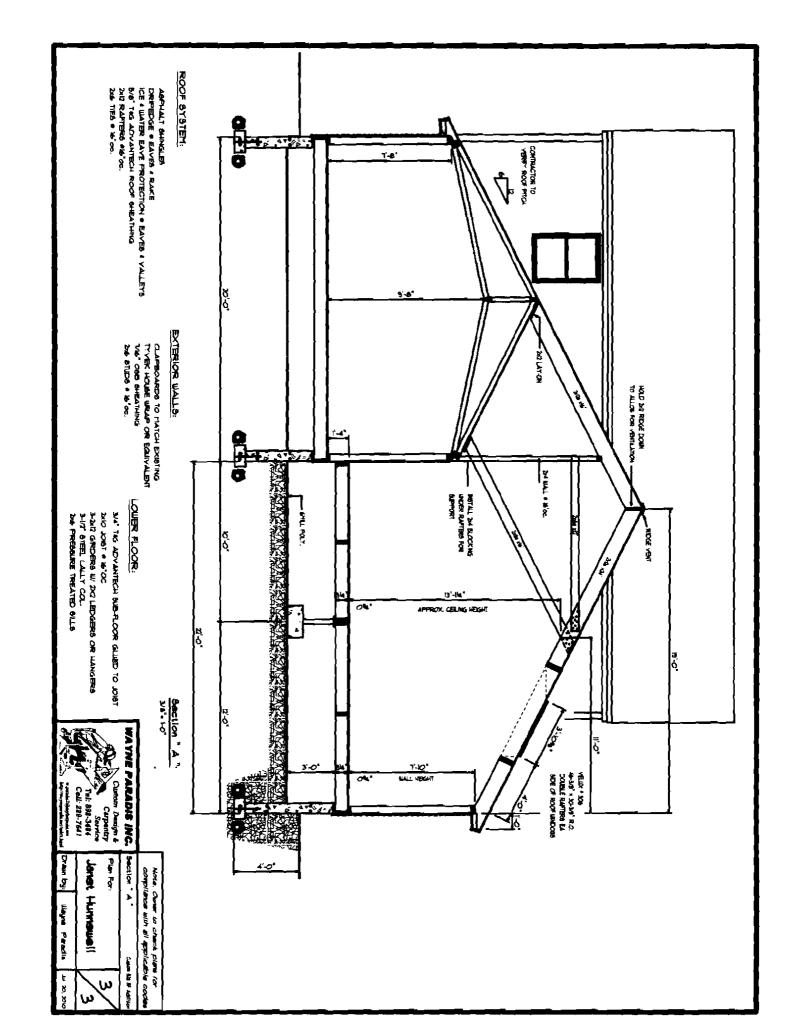


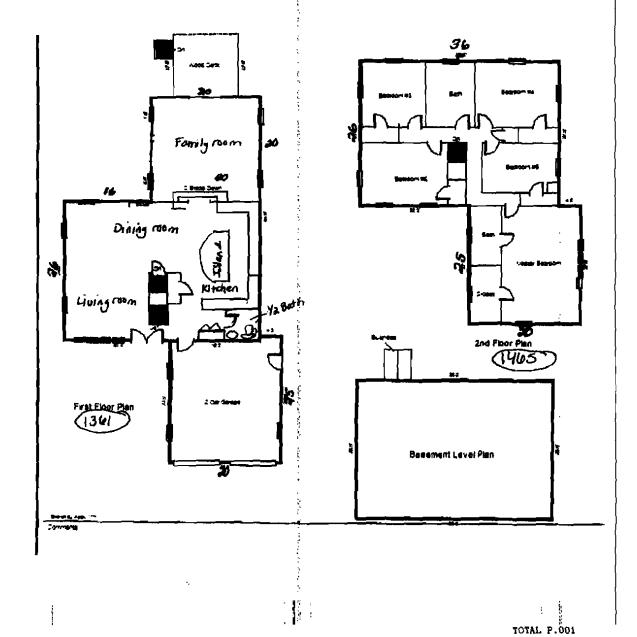


RECEIVED

Dept. of Building Inspectic City of Portland Maine

Dept. of Building Inspection City of Portland Maine AUG 2 4 2010





# **RECEIVED**

AUG 19 2010

Dept. of Building Inspections City of Portland Mains

# WARRANTY DEED

# Joint Tenancy Maine Statutory Short Form

# KNOW ALL PERSONS BY THESE PRESENTS, That

## Paul E. Ureneck and Laura Angelone

of 28 Whaleboat Road, Portland, ME 04103

for consideration paid, grant to Derek S. Webb and Janet L. Hunnewell

of 128 Pennell Avenue, Portland, ME 04103

with warranty covenants, as joint tenants the land in Portland, County of Cumberland, and State of Maine, described on the attached EXHIBIT A.

WITNESS our/my hand(s) and seal(s) this 15th day of June, 2010.

Signed, Sealed and Delivered in

presence of:

MAINE REAL ESTATE TAX PAID

Paul F. Ureneck

STATE OF MAINE

June 15, 2010

E Oreveels

#### **COUNTY OF Cumberland**

Then personally appeared the above named Paul E. Ureneck and acknowledged the foregoing

instrument to be His free act and deed.

Notary Public

Before ne.

Printed Name: Connie.

My Commission Explored Public, Maine
My Commission Exp. 12/29/2014

Before me,

## STATE OF MAINE

June 15, 2010

### COUNTY OF Cumberland

Then personally appeared the above named Laura Angelone and acknowledged the foregoing

instrument to be Her free act and deed.

Notary Public Connie Jo Minervino Printed Name:

My Commission Polary Public, Maine

Doc**‡**÷

A certain lot or parcel of land situated in the City of Portland, County of Cumberland and State of Maine, and being more particularly described as Lot 16, shown on a certain recording plat entitled "Presumpscot River Place II" prepared by Land Use Consultants, dated June 26, 1984, recorded in the Cumberland County Registry of Deeds in Plan Book 149, Page 64.

Also conveying the right in common with others to use the streets and ways shown on said plan.

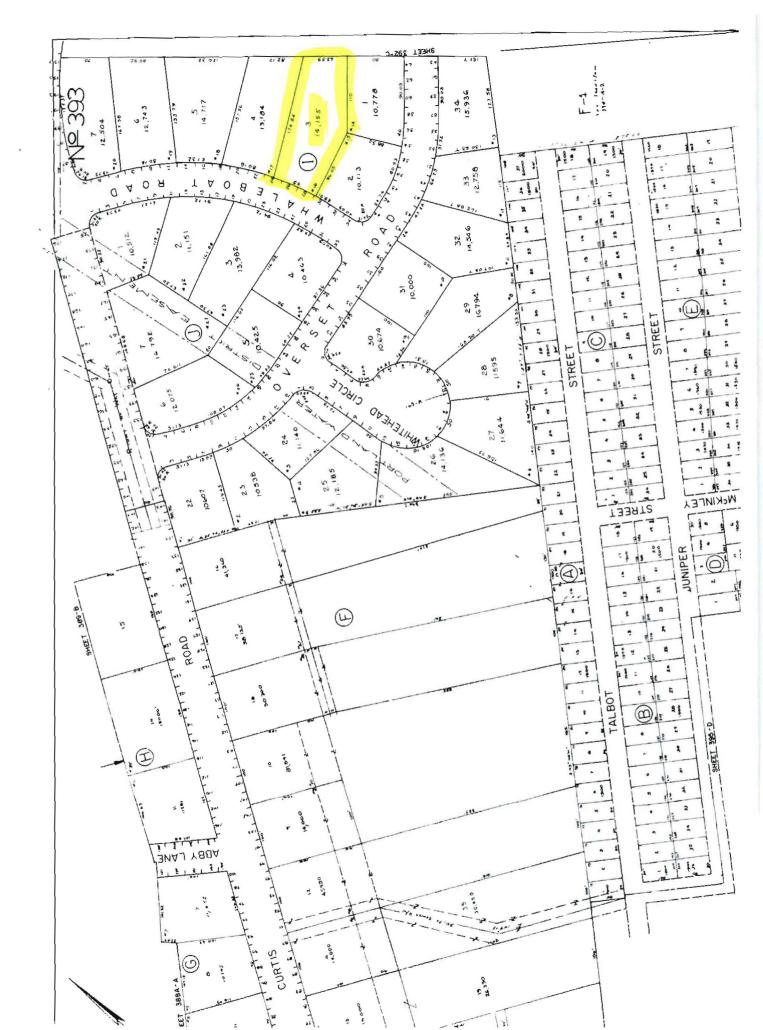
This conveyance is made subject to various utility easements which may effect this lot or this subdivision recorded in the Cumberland County Registry of Deeds in Book 1842, Page 413; Book 2167, Page 435; Book 2267, Page 250; Book 2276, Page 277; Book 2378, Page 202; Book 2448, Page 367; Book 2609, Page 315; Book 3895, Page 85; Book 6298, Page 95; Book 6447, Page 192; Book 6586, Page 97; Book 6812, Page 222; Book 6812, Page 223; and Book 6812, Page 224.

This conveyance is also made subject to the notes and conditions set forth on the subdivision plan recorded in Plan Book 149, Page 64.

This conveyance is also subject to the conditions as set forth in deed from Robert L. Adams, et al to Francis K. Spinazola, et al dated June 17, 1986 and recorded in said Registry of Deeds in Book 7224, Page 174, all of which conditions have been satisfied.

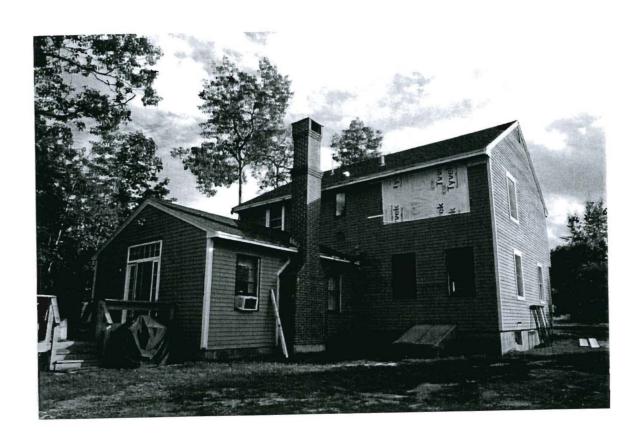
The premises are conveyed together with and subject to any and all easements or appurtenances of record, insofar as the same are in force and applicable.

Reference is hereby given to a Deed from William C. Scaplen and Laura L. Scaplen, to Paul E. Ureneck and Laura Angelone dated June 28, 1996, and recorded July 2, 1996, in Book 12593, Page 343 in the Cumberland County Registry of Deeds. Reference is also made to Abstract of Divorce Judgment recorded February 18, 2010 in said Registry of Deeds in Book 27600, Page 203.



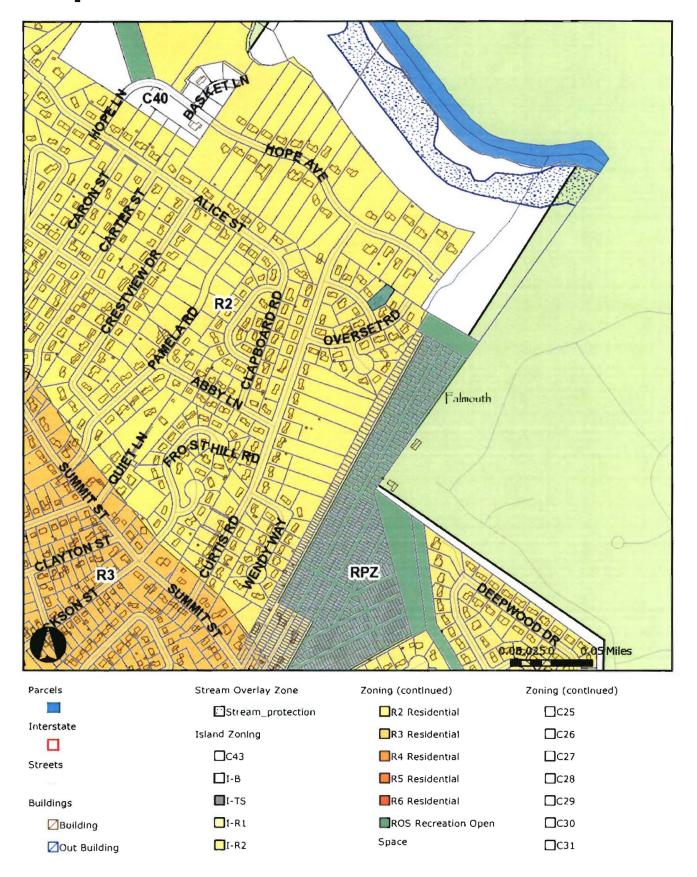








# Map





# City of Portland Zoning Board of Appeals

August 25, 2010

Janet Hunnewell 28 Whaleboat Road Portland, ME 04103

Dear Ms. Hunnewell,

Your Practical Difficulty Appeal and Conditional Use Appeal have been scheduled to be heard before the Zoning Board of Appeals on Thursday, September 2, 2010 at 6:30 p.m. in Room 209, located on the second floor of City Hall.

Please remember to bring copies of your application packets with you to the meeting to answer any questions the Board may have.

I have included an agenda with your appeals highlighted, as well as a handout outlining the meeting process for the Zoning Board of Appeals.

I have also included the bills for the legal ad, the notices and the processing fee for the appeals. 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 207-874-8709 if you have any questions.

Sincerely,

Ann B. Machado Zoning Specialist

Cc: File

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

389 Congress Street Portland, Maine 04101

**Application No:** 

10-59900006

Statement Date: 08/25/2010

Project Name:

28 Whaleboat - Cond.

**Applicant: Janet Hunnewell** 

Development Type: ZONING CONDITIONAL USE APPEAL

CBL:

393 - 1-003-001

28 WHALEBOAT RD

# **SUMMARY OF OUTSTANDING FEES**

	С	harge Amount	Paid	Due
LEGAL AD ZONING BOARD		\$76.02	\$0.00	\$76.02
ZONING BOARD OF APPEALS		\$100.00	\$100.00	\$0.00
	Outstanding Charges	\$176.02	\$100.00	\$76.02

pd 9/3/10

Detach and remit with payment

Application No: 10-59900006

Project Name: 28 Whaleboat - Cond.

**Total Due Now** 

\$76.02

Janet Hunnewell 28 Whaleboat Rd, Portland, ME 04103

**Amount Remitted** 

# City of Portland DATE: 9/03/10 TIME: 13:48:55

LEGAL AD ZONING BOARD

L2

PROJECT #: 10-59900006

PROJECT DESC: CONDITIONAL USE - 28 WHALEBOAT AVE. - AD

RECEIVED FROM: Janet Hunnewell

RECEIPT NUMBER:

FEE DESCRIPTION CREDIT PAYMENT

PZ CASH RECEIPT

TOTAL AMOUNT:

76.02

76.02

## City of Portland DATE: 8/17/10 TIME: 15:00:31

TOTAL AMOUNT:

# PZ CASH RECEIPT

ZONING BOARD OF APPEALS

 $z_1$ 

100.00

100.00

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	STINU
	ANDERSON DAVID L & KAREN S	10 OVERSET RD	10 OVERSET RD	1
		PORTLAND, ME 04103	·	
	ARDITO EUGENE G &	17 OVERSET RD	17 OVERSET RD	1
<del></del> .	BARBARA W JTS	PORTLAND, ME 04103		<u> </u>
	BERG CINDI J &	10 WHALEBOAT RD	10 WHALEBOAT RD	1
	STEVEN M BERG JTS	PORTLAND, ME 04103	·	
	BRENERMAN DAVID H &	32 OVERSET RD	32 OVERSET RD	1
<del></del>	NANCY M JTS	PORTLAND, ME 04103		<del></del>
	BRYANT EDWARD GORDON JR &	182 HOPE AVE	182 HOPE AVE	1
	JENNIFER ANNE BRYANT JTS	PORTLAND, ME 04103		
	BURTON JOHN C & SARAH A JTS	158 CURTIS RD	156 CURTIS RD	1
		PORTLAND, ME 04103		
	D'AMATO STEVEN L &	20 WHITEHEAD CIR	20 WHITEHEAD CIR	1
	THERESE B JTS	PORTLAND, ME 04103		
	DENNIS NATHAN J &	183 CURTIS RD	163 CURTIS RD	1
	KIMBERLY A JTS	PORTLAND, ME 04103		<del></del>
	EYE SEAN M &	60 OVERSET RD	60 OVERSET RD	1
	CHERYL G EYE JTS	PORTLAND, ME 04103		- <u></u>
	FOLEY CHRISTINE R TRUSTEE	189 CURTIS RD	189 CURTIS RD	1
		PORTLAND, ME 04103		<u> </u>
	GALLI ERNEST G	186 CURTIS RD	186 CURTIS RD	1
		PORTLAND, ME 04103		
	GIANCOTTI MARCO P SR &	192 HOPE AVE	192 HOPE AVE	1
	KRISTEN E GIANCOTTI JTS	PORTLAND, ME 04103		
	GILLIS PAUL E & CAROL F JTS	7 WHALEBOAT RD	7 WHALEBOAT RD	1
		PORTLAND, ME_04103		
<del>-</del>	GREEN ANTHONY P &	22 WHALEBOAT RD	22 WHALEBOAT RD	1
	MELISSA A M JTS	PORTLAND, ME 04103		
	HACHBORN LEONARD W &	150 CURTIS RD	150 CURTIS RD	1
	KAREN C JTS	PORTLAND, ME 04103		
	HARRIS JASON R &	199 HOPE AVE	199 HOPE AVE	1
	KATHERINE C HARRIS JTS	PORTLAND, ME 04103		
	HOULTBERG CAROLYN &	31 OVERSET RD	31 OVERSET RD	1
	DOUGLAS D WARREN &	PORTLAND, ME_04103	_	
<del></del>	IRISH JEFFREY S	135 CURTIS RD	135 CURTIS RD	1
		PORTLAND, ME 04103		
	JONES RAYMOND K &	16 WHALEBOAT RD	16 WHALEBOAT RD	1
	VALERIE F JTS	PORTLAND, ME 04103		
	KELEKYAN DIRANE &	48 OVERSET RD	48 OVERSET RD	1
	DAVID A NELSON JTS	PORTLAND, ME 04103	•	
	KELLY PETER W IV &	226 HOPE AVE	226 HOPE AVE	1
	JULIE N KELLY JTS	PORTLAND, ME 04103		ŕ
	LAETSCH DAVID & BARBARA JTS	24 WHITEHEAD CIR	TALBOT ST	0
		PORTLAND, ME 04103		-
	LAETSCH DAVID & BARBARA L	24 WHITEHEAD CIR	24 WHITEHEAD CIR	1
		PORTLAND, ME 04103		•
	LAPIERRE BARNADETTE D &	57 OVERSET RD	53 OVERSET RD	1
	RICHARD P LEGERE JTS	PORTLAND, ME 04103		•
	LAYTON TIMOTHY L & ROBERTA	11 OVERSET RD	11 OVERSET RD	1
		PORTLAND, ME 04103		•
		<del></del>	45 141141 55 04 7 05	
	LEAVITT FREDERICK J &	15 WHALEBOAT RD	15 WHALEBOAT RD	1

218 HOPE AVE

168 CURTIS RD

PORTLAND, ME 04103

PORTLAND, ME 04103

PORTLAND, ME 04103

19 WHITEHEAD CIR

218 HOPE AVE

188 CURTIS RD

19 WHITEHEAD CIR

1

1

1

WHITWORTH DAVID A &

WOODS WILLIAM M &

**ZEMRAK MAUREEN &** 

WESLEY ZEMRAK JTS

LYNN Y JTS

**DEBORAH L WHITWORTH JTS** 

