

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Philip Saucier
Sara Moppin-secretary
Matthew Morgan
Gordon Smith-chair
Mark Bower
William Getz
Elyse Segovias

April 6, 2012

George & Brenda Turner
137 Ray Street
Portland, ME 04103

RE: 137 Ray Street
CBL: 407 A001, 002,012 & 013 & 409 B006, 007, 012 & 013
ZONE: R-3

Dear Mr. & Mrs. Turner,

At the April 5, 2012 meeting, the Zoning Board of Appeals voted 5-0 to grant your conditional use appeal to add an accessory dwelling unit to your single family home. I am enclosing a copy of the Board's decision.

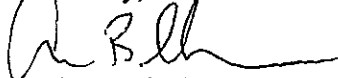
I have also enclosed a receipt for the final payment. Your account is now paid in full.

Now that the conditional use appeal has been approved, you need to submit an application to change the use of the property to a single family home with an accessory dwelling unit. I have enclosed an application for the change of use. You have six months from the date of the hearing, April 5, 2012, referenced under section 14-474(f), to obtain the building permit, or your Zoning Board approval will expire. I have also enclosed an administrative authorization application that you need to submit to the planning authority since you are adding an accessory dwelling unit.

Appeals from decisions of the Board may be filed in Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

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

Yours truly,



Ann B. Machado
Zoning Specialist

Cc. file

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk
From: Marge Schmuckal, Zoning Administrator
Date: April 6, 2012
RE: Action taken by the Zoning Board of Appeals on April 5, 2012.

Members Present: William Getz, Gordon Smith (chair), Mark Bower, Elyse Segovias (acting secretary) and Matthew Morgan

Members Absent: Phil Saucier and Sara Moppin

1. New Business

A. Conditional Use Appeal:

135-145 Ray Street, George & Brenda Turner, owners, Tax Map 407, Block A, Lots 001, 002, 012 & 013 & Tax Map 409, Block B, Lots 006, 007, 012 & 013, R-3 Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-88(a)(2) to add an accessory dwelling unit to their single family dwelling. Representing the appeal are Tristin Krause, Brian Krause & John Krause. **The Zoning Board of Appeals voted 5-0 to grant the appeal to add an accessory dwelling unit.**

B. Conditional Use Appeal:

72-78 Phipps Road, Shafaat Qazi, owner, Tax Map 183A, Block B, Lot 007, R-3 Residential Zone: The appellant is seeking a Conditional Use Appeal under section 14-88(a)(2) to add an accessory dwelling unit to his single family dwelling. Representing the appeal is the owner. **The Zoning Board of Appeals voted 5-0 to grant the appeal to add an accessory dwelling unit.**

Enclosure:

Decisions for Agenda from April 5, 2012

One DVD

CC: Mark Rees, City Manager

Greg Mitchell, Acting Director, Planning & Urban Development

Alex Jaegerman, Planning Division

Mary Davis, Housing and Neighborhood Services Division

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

R-3 Residential Zone Accessory Unit

Conditional Use Appeal

DECISION

Date of public hearing: April 5, 2012

Name and address of applicant: George & Brenda Turner
137 Ray Street
Portland, ME 04103

Location of property under appeal: 135-145 Ray Street

For the Record:

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

None.

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

None.

Findings of Fact and Conclusions of Law:

Applicant is proposing to add an accessory unit to the existing single family dwelling. The gross floor area of the principal building is 3,000 sq. feet. The accessory unit will be 882 sq. ft., which is equal to 29.4% of the gross floor area of the principle building. There will be no open outside stairways or fire escapes above the ground floor. The lot size is 12,940 sq. ft. Applicant owns surrounding lots for a total of 29,220 sq. ft. in all.

A. Conditional Use Standards pursuant to Portland City Code §14-88(a)(2):

1. 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 5 Not Satisfied 0

Reason and supporting facts:

The accessory unit will be 882 sq. ft., or 29.4% of gross floor area.

2. There shall be no open outside stairways or fire escapes above the ground floor.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

Alterations will be all be interior.

3. 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 5 Not Satisfied 0

Reason and supporting facts:

There will be no exterior alterations.

4. A minimum lot size of six thousand five hundred (6,500) square feet of land area shall be required.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

By zoning admin, lot size is over 6,500 sq ft.

5. No dwelling unit shall be reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

Principle unit will be 1,500 sq. ft after renovation.

6. Parking shall be provided as required by division 20 of this article: 1 off-street parking space per new unit (14-332(a)(2)).

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

By application

7. Either the accessory unit or principal unit shall be occupied by the lot owner, except for bona fide temporary absences.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

Testimony supports that Turner will reside in the home.

B. Conditional Use Standards pursuant to Portland City Code §14-474(c)(2):

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

Yes 0 No 5

Reason and supporting facts:

By testimony, there will be no exterior alterations
or ~~effe~~ distinctive characteristics or effects.

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

Yes 0 No 5

Reason and supporting facts:

No evidence to support any adverse impact.
Testimony supports this want change use.

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

Yes 0 No 5

Reason and supporting facts:

This use will not be any different
than any other residential use.

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.

Option 2: 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:

Option 3: The Board finds that not all of the standards (1 through 7) described in section A above have been satisfied and/or that all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

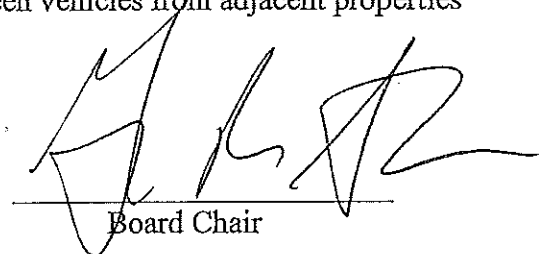
Please note that, pursuant to Portland City Code 14-88(a)(2)(i), if approved the project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:

1. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building; and

2. 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.

Dated:

4.5.12



Board Chair

members present: Gordon Smith, ^{Acting Sec} Elyse Segovia, William Getz, Mark

CITY OF PORTLAND, MAINE ^{Matthew Morgan} ^{Bower}

ZONING BOARD OF APPEALS

members Absent: Phil Saubier - Sara Moppin -

APPEAL AGENDA

called to order 6:30pm

The Board of Appeals will hold a public hearing on Thursday, April 5, 2012 at 6:30 p.m. on the second floor in the City Council Chambers at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

1. New Business

A. Conditional Use Appeal:

Granted
5-0

135-145 Ray Street, George & Brenda Turner, owners, Tax Map 407, Block A, Lots 001, 002, 012 & 013 & Tax Map 409, Block B, Lots 006, 007, 012 & 013, R-3

Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-88(a)(2) to add an accessory dwelling unit to their single family dwelling. Representing the appeal are Tristin Krause, Brian Krause & John Krause.

B. Conditional Use Appeal:

Granted
5-0

taken first - Elyse was Sec.

72-78 Phipps Road, Shafaat Qazi, owner, Tax Map 183A, Block B, Lot 007, R-3

Residential Zone: The appellant is seeking a Conditional Use Appeal under section 14-88(a)(2) to add an accessory dwelling unit to his single family dwelling. Representing the appeal is the owner.

2. Adjournment:



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

Applicant Information:

Georget Brenda Turner
Name

Business Name

137 Ray St.
Address
Portland, ME 04103

207 797-5161
Telephone Fax

Applicant's Right, Title or Interest in Subject Property:

owner
(e.g. owner, purchaser, etc.):

Current Zoning Designation: R3

Existing Use of Property:
Single family

Subject Property Information:

137 Ray St.
Property Address
407-A 001 002, 409-B-007
Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

Name

Address

Telephone Fax

Conditional Use Authorized by Section 14 - 88(a)(2)

Type of Conditional Use Proposed:
Add accessory dwelling unit

RECEIVED

MAR 16 2012

Dept. of Building Inspections
City of Portland Maine

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:

- (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.

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

Brenda B. Turner Georget B. Turner
Signature of Applicant

3/19/2012
Date

March 19, 2012

Dear Members of the Zoning Board of Appeals,

Our hope is to convert part of our split level home at 137 Ray Street to accommodate 2 families. The upstairs consists of 6 rooms and a full bath. That would remain unchanged. The downstairs presently has 2 rooms, a full bath and an oversized 2 car garage. Our plan is to convert one of the existing rooms into a kitchen and add 2 rooms using half of the garage space.

Following the code of ordinances, revised 2/18/12, we have addressed the following requirements:

a. The accessory apartment will be 882 square feet which will be less than 30% of the gross floor area of our house totaling 3000 square feet. The floor to ceiling height inside the lower level is 7 feet 11 inches. The floor to ceiling height in the lower level is more than 2/3 above the average grade (see attach. #1).

b. There will be no open outside stairways because accessory apt will be on the lower level.

c. There won't be any outside changes made because all the work will be on the inside of the existing building.

d. The house lot is 12,940SF. The total surrounding lots that we own make it a total of 29,220SF.

g. The principal unit is 1500SF.


h.. Measuring 25 feet from the center of the street into the driveway leaves us with 55 feet minus 25 feet which equals 30' X 20' of legal parking space. Therefore we will add 18' X 9' pavement at the end of the driveway off the left side to accommodate 1 more car.

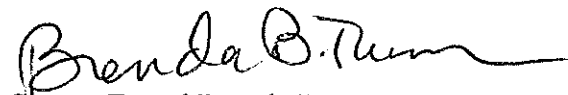
i. The only exterior alterations will be the added pavement for 1 car. All other work is interior.

j. Accessory apartment will be occupied by the lot owners while the upstairs will be

occupied by our daughter, son-in-law and their children.

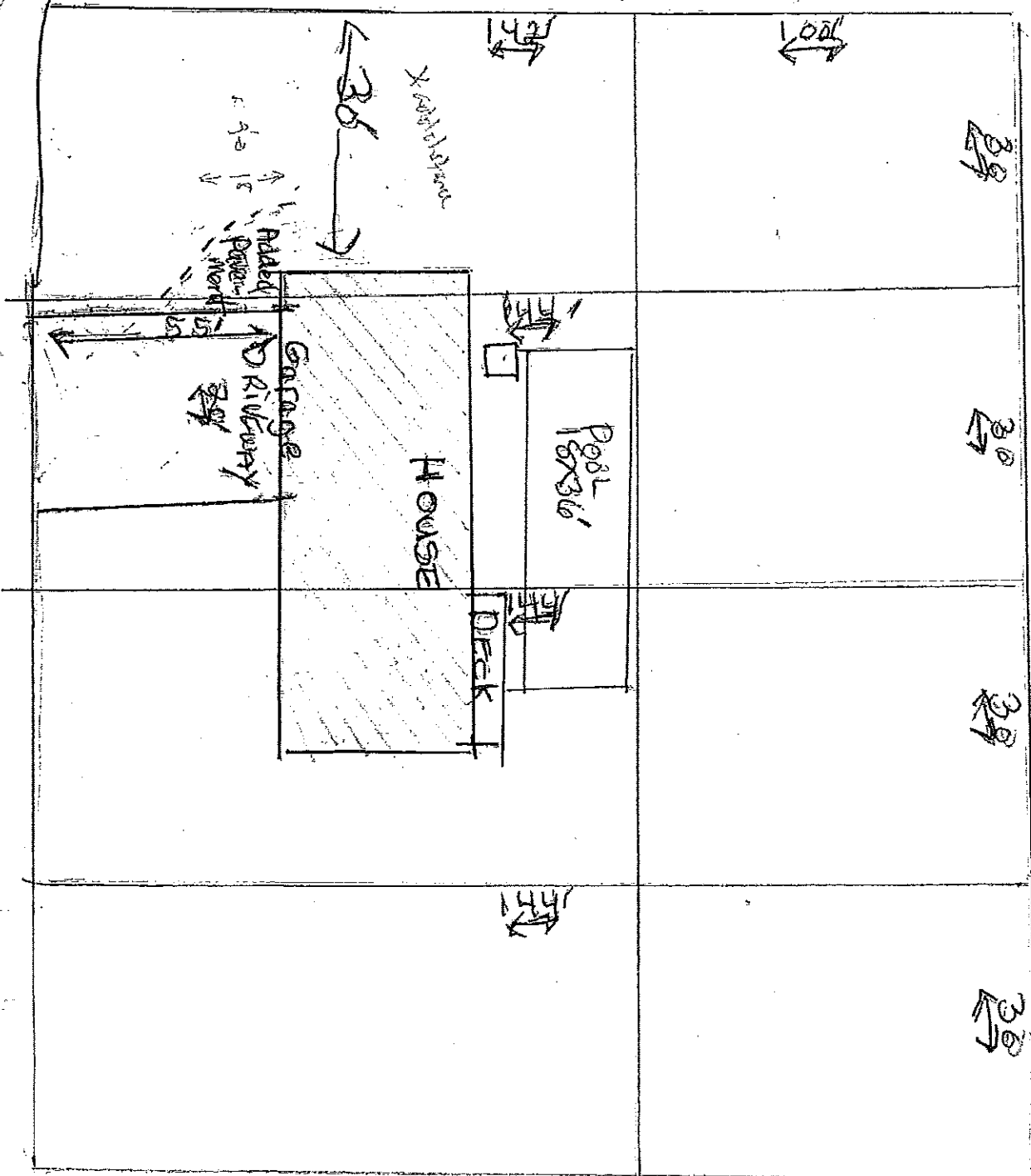
There are no unique or distinctive characteristics or effects associated with our plan: nor will there be an adverse impact upon the health, safety or welfare of the public or the surrounding area.

Sincerely, 



George E. and Brenda B. Turner
Joint owners of:
137 Ray St.
Portland, ME
turnerbr@yahoo.com
207 650-0594

Marlborough Rd. (Paper Rd)

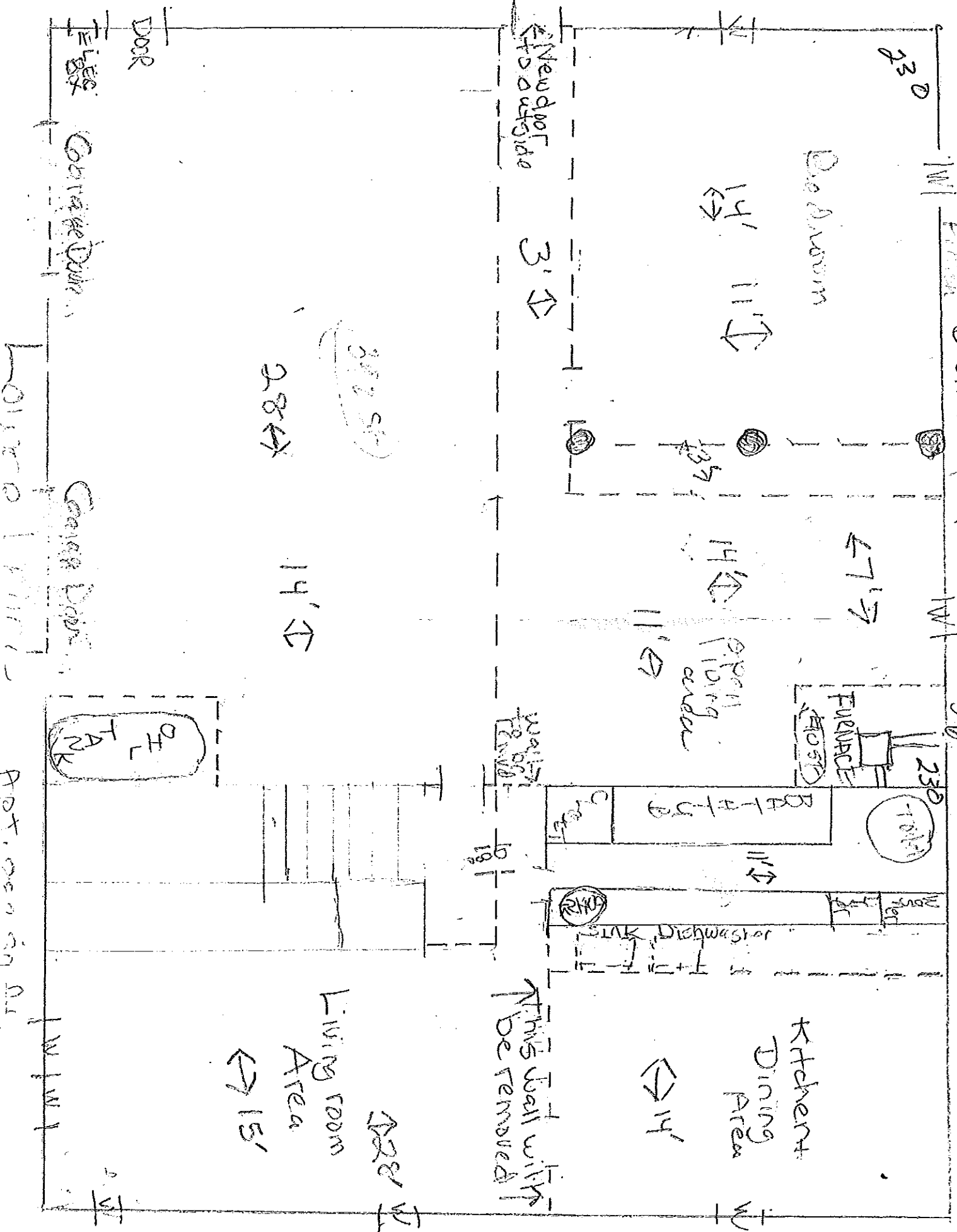


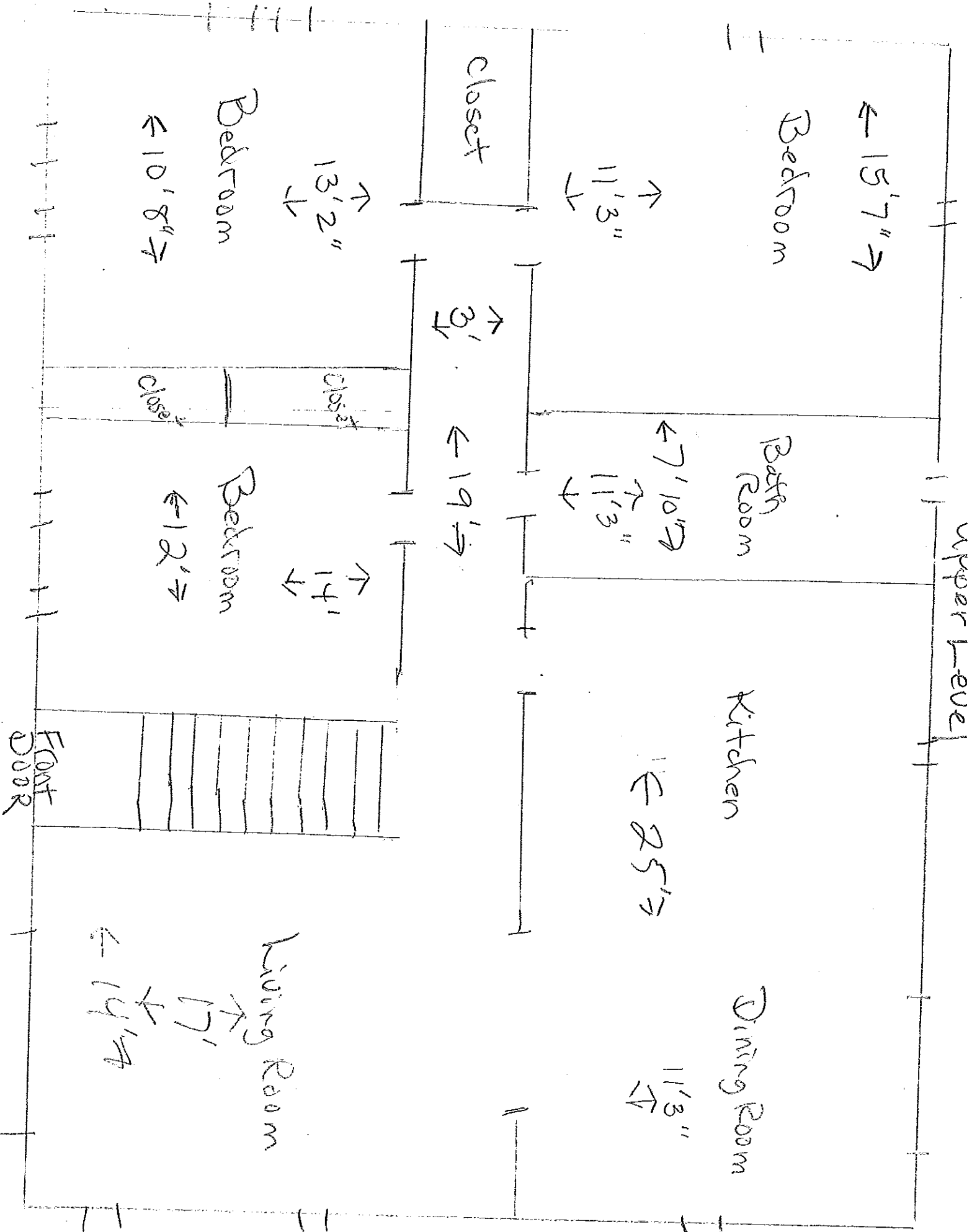
RAY ST.

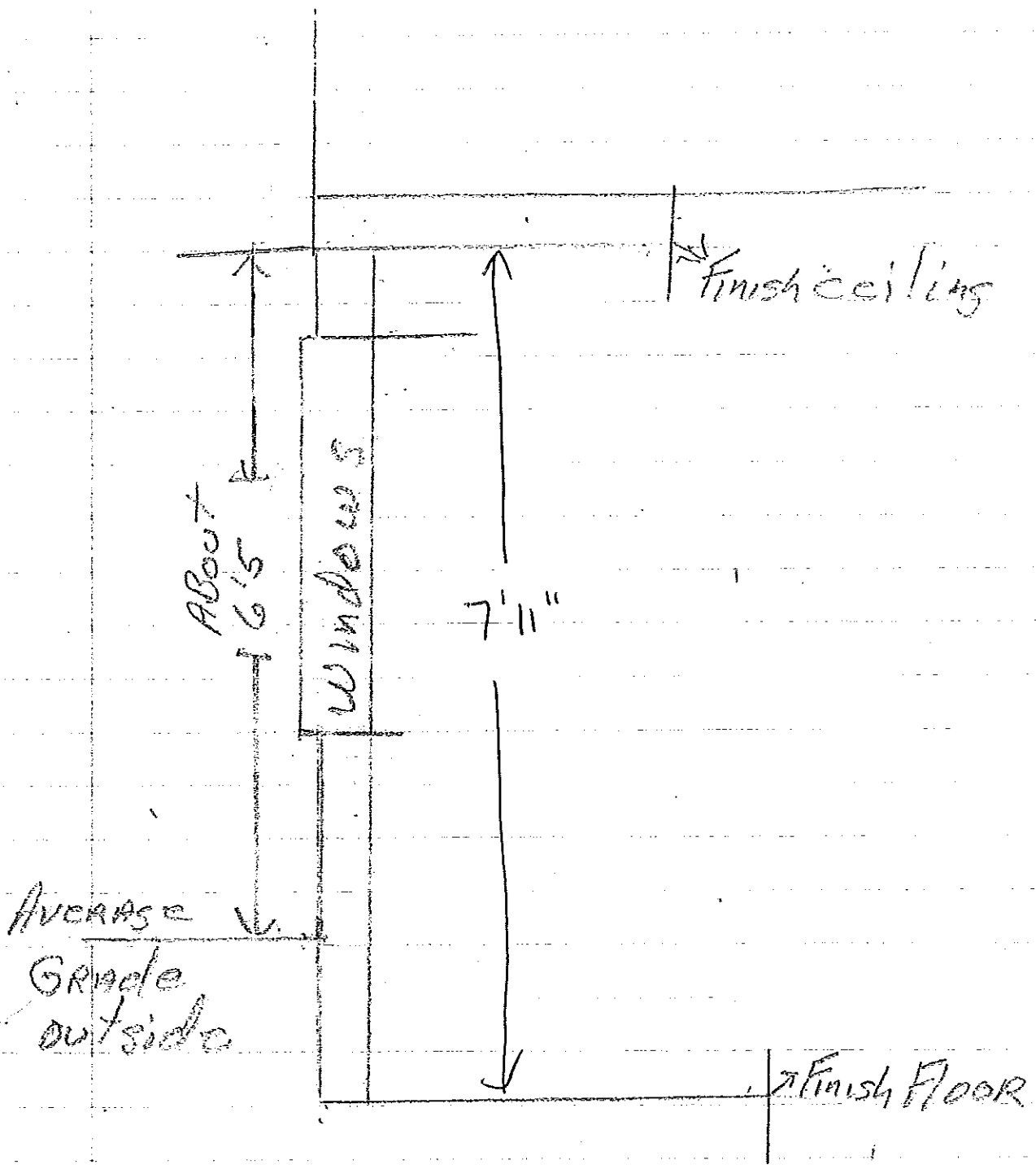
Ceiling HT 7'11"

Dashes = Proposed

5'6" Solid lines = Existing







BK11693PG245

WARRANTY DEED
(Statutory Short Form)

66059

I, COLEMAN M. BURNS, of Gray, County of Cumberland, and State of Maine, for consideration paid, grant to GEORGE E. TURNER, JR. AND BRENDA B. TURNER, both of Portland, County of Cumberland, and State of Maine, as joint tenants and not as tenants in common, their heirs and assigns forever, WITH WARRANTY COVENANTS, the following described real estate in Portland, County of Cumberland, and State of Maine:

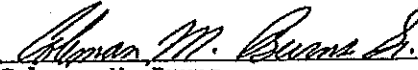
See Exhibit A attached hereto and made a part hereof.

Also hereby conveying all rights, easements, privileges, and appurtenances, belonging to the premises hereinabove described.

WITNESS my hand and seal this 1st day of November, 1994.

WITNESS




Coleman M. Burns


MAINE REAL ESTATE TAX PAID

STATE OF MAINE
Cumberland, ss.

November 1, 1994

Then personally appeared the above-named Coleman M. Burns and acknowledged the foregoing instrument to be his free act and deed.

Before me,


James A. Hopkinson
Attorney at Law

BK 11693PG246

EXHIBIT A

Eight certain lots or parcels of alnd situated in the City of Portland, County of Cumberland and State of Maine and being Lots numbered thirteen (13), fourteen (14), fifteen (15), sixteen (16), sixty-one (61), sixty-two (62), sixty-three (63) and sixty-four (64) as shown on plan of lots at Ray Gardens made by A.L. Eliot, C.E. dated September 1, 1914 and recorded in Cumberland County Registry of Deeds, Plan Book 12, Page 103 to which reference is made for further description of said lots together with the fees insofar as we have the right to convey the same, of all the streets and ways shown on said plan, in common with the owners of the other lots shown on said plan, and subject to the right of all the said lot owners to make any customary use of said streets, and ways.

Being the same premises conveyed to Coleman M. Burns and Doreen A. Burns by deed of Michael J. Bibro and Althea C. Bibro dated August 24, 1979 and recorded in said Registry of Deeds in Book 4551, Page 152 and as conveyed by to Coleman Burns by deed of Theodore Pitas & Associates dated July 17, 1986 and recorded in said Registry of Deeds in Book 7291, Page 140.

The said Doreen A. Burns died on February 22, 1994 leaving Coleman M. Burns as the surviving joint tenant

RECEIVED
RECORDED, REGISTRY OF DEEDS

94 NOV -2 AM 9:50

CUMBERLAND COUNTY

John B O'Brien

March 19, 2012

Dear Members of the Zoning Board of Appeals,

We give Brian Krause, Tristin Krause and John Krause permission to represent our property at 137 Ray Street , Portland, ME, in our absence.

Sincerely, .

George E. Turner Jr
Brenda B. Turner

George E. Turner and Brenda B. Turner
Joint owners of
137 Ray Street
Portland, Maine



City of Portland Zoning Board of Appeals

March 28 2012

George & Brenda Turner
137 Ray Street
Portland, ME 04103

Dear Mr. & Mrs. Turner,

Your Conditional Use Appeal have been scheduled to be heard before the Zoning Board of Appeals on **Thursday, April 5, 2012 at 6:30 p.m.** in City Council Chambers, located on the second floor of City Hall.

Please remember to bring a copy of your application 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 a handout outlining the meeting process for the Zoning Board of Appeals.

I have also included the bill for the processing fee, legal ad and the notices for the appeal. 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 & DEVELOPMENT

389 Congress Street
Portland, Maine 04101

INVOICE FOR FEES

Application No:	2012-457	Applicant:	George & Brenda Turner
CBL:	407 A001	Application Type:	Conditional Use Appeal
Location:	137 Ray Street	Invoice Date:	3/28/12

<u>Fee Description</u>	<u>QTY</u>	<u>Fee/Deposit Charge</u>
Legal Advertisement	1	\$66.34
Notices	65	\$36.75
Processing Fee	1	\$50.00
Zoning Practical Difficulty	1	\$100.00

Total Current Fees: \$253.09
Total Current Payments: -\$100.00

Amount Due Now:

\$153.09

*pd 4/5/12
#616*

Bill to:	CBL: 407 A001	Application No: 2012-457
George & Brenda Turner	Invoice Date: 3/28/12	<u>Total Amount Due: \$153.09</u>
137 Ray Street		(due on receipt)
Portland, ME 04103		

Make check payable to: City of Portland and mail to Room 315, Attn: Ann Machado, 389 Congress St., Portland, ME 04101



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Receipts Details:

Tender Information: Check , Check Number: 5091

Tender Amount: 100.00

Receipt Header:

Cashier Id: amachado

Receipt Date: 3/19/2012

Receipt Number: 41853

Receipt Details:

Referance ID:	1528	Fee Type:	PZ-Z1
Receipt Number:	0	Payment Date:	
Transaction Amount:	100.00	Charge Amount:	100.00
Job ID: Project ID: 2012-457 - 137 Ray St. - Conditional Use			
Additional Comments:			

Thank You for your Payment!



PORTLAND MAINE

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Receipts Details:

Tender Information: Check , Check Number: 616

Tender Amount: 153.09

Receipt Header:

Cashier Id: amachado

Receipt Date: 4/6/2012

Receipt Number: 42627

Receipt Details:

Reference ID:	1543	Fee Type:	PZ-N1
Receipt Number:	0	Payment Date:	
Transaction Amount:	36.75	Charge Amount:	36.75
Job ID: Project ID: 2012-457 - 137 Ray St. - Conditional Use			
Additional Comments:			

Reference ID:	1544	Fee Type:	PZ-L2
Receipt Number:	0	Payment Date:	
Transaction Amount:	66.34	Charge Amount:	66.34
Job ID: Project ID: 2012-457 - 137 Ray St. - Conditional Use			

Additional Comments:

Referance ID:	1545	Fee Type:	PZ-ZP
Receipt Number:	0	Payment Date:	
Transaction Amount:	50.00	Charge Amount:	50.00

Job ID: Project ID: 2012-457 - 137 Ray St. - Conditional Use

Additional Comments:

Thank You for your Payment!

Ann Machado - Re: ZBA Legal Ad

From: Joan Jensen <jjensen@pressherald.com>
To: Ann Machado <AMACHADO@portlandmaine.gov>
Date: 3/26/2012 11:18 AM
Subject: Re: ZBA Legal Ad
Attachments: Portland 3:30.pdf

Hi Ann,

It's definitely a Monday morning!

All set to run your ad on Friday, March 30.
The cost is \$132.68 includes \$2.00 online charge. I included a proof.
Thank you,
Joan

--
Joan Jensen
Legal Advertising
Portland Press Herald/Maine Sunday Telegram
P.O. Box 1460
Portland, ME 04104
Tel. (207) 791-6157
Fax (207) 791-6910
Email jjensen@pressherald.com

On 3/26/12 10:08 AM, Ann Machado wrote:

Joan -

This time I am attaching the Zoning Board of Appeals Legal ad for Friday, March 30, 2012.

It's a monday morning....

Thanks.

Ann
874-8709