

① More spaces
5' from R
② Resolve frontage

CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
Planning Copy

2005-0198
Application I. D. Number
8/26/2005
Application Date
Two family house
Project Name/Description

Jeffrey Lowery
Applicant
123 E. Kidder Street, Portland, ME 04103
Applicant's Mailing Address

123 - 123 E. Kidder Street, Portland, Maine
Address of Proposed Site
425 i028
Assessor's Reference: Chart-Block-Lot

Consultant/Agent
Applicant Ph: (207) 879-5971 Agent Fax:
Applicant or Agent Daytime Telephone, Fax

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify) _____

2,464 s.f. Proposed Building square Feet or # of Units
Acreage of Site
R5 Zoning

Check Review Required:

- Site Plan (major/minor) Subdivision # of lots _____ PAD Review 14-403 Streets Review
- Flood Hazard Shoreland Historic Preservation DEP Local Certification
- Zoning Conditional Use (ZBA/PB) Zoning Variance Other _____

Fees Paid: Site Pla \$400.00 Subdivision _____ Engineer Review _____ Date 8/30/2005

Planning Approval Status:

Reviewer _____

- Approved Approved w/Conditions See Attached Denied

Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets Attached

OK to Issue Building Permit _____ signature _____ date _____

Performance Guarantee Required* Not Required

* No building permit may be issued until a performance guarantee has been submitted as indicated below

<input type="checkbox"/> Performance Guarantee Accepted	_____	_____	_____
	date	amount	expiration date
<input type="checkbox"/> Inspection Fee Paid	_____	_____	
	date	amount	
<input type="checkbox"/> Building Permit Issue	_____		
	date		
<input type="checkbox"/> Performance Guarantee Reduced	_____	_____	_____
	date	remaining balance	signature
<input type="checkbox"/> Temporary Certificate of Occupancy	_____	<input type="checkbox"/> Conditions (See Attached)	_____
	date		expiration date
<input type="checkbox"/> Final Inspection	_____	_____	
	date	signature	
<input type="checkbox"/> Certificate Of Occupancy	_____		
	date		
<input type="checkbox"/> Performance Guarantee Released	_____	_____	
	date	signature	
<input type="checkbox"/> Defect Guarantee Submitted	_____	_____	_____
	submitted date	amount	expiration date
<input type="checkbox"/> Defect Guarantee Released	_____	_____	
	date	signature	

miner site plan
123 E. Kidders St.

Notice of receipt

Sent to immediate
abutters

#2005-0198



Jeffrey and Ellen Lowery
123 East Kidder Street
Portland, Maine 04103
Tel: 207-879-5971 (home)
207-939-0286 (cellular)

August 26, 2005

City of Portland
389 Congress Street
Portland, Maine 04101

Re: Request for Site Plan Approval at 123 East Kidder Street
CBL # 4251028
ID # 2005-0093


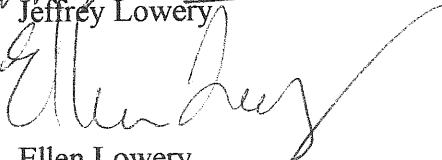
Dear Sirs:

We respectfully submit the enclosed request for site plan approval to construct a two-family home on the lot abutting 123 East Kidder Street in Portland. Our intention is to gain approval of the site for the construction of a two-family dwelling, with the building permit to be submitted later upon conveyance of the land to a builder.

Jay Reynold's letter of June 1, 2005 indicated the necessary changes to the originally submitted site plan application (submitted by Star Homes, Inc., a builder who had contracted to purchase the lot but defaulted on its contract), and we believe we have complied with all of the requirements. We are currently under contract to sell the lot to another builder, pending approval of the enclosed site plan application, and will be happy to provide you with a copy of the purchase and sale agreement if you wish.

We have worked closely with the City in every aspect of this project, and look forward to cooperating with you to gain site approval. Please let us know if you require any additional information or material in support of this application.

Best regards,


Jeffrey Lowery

Ellen Lowery

Enclosures:
Site Plan Application
Site Plan
\$400 minor site plan application fee

City of Portland Site Plan Application

If you or the property owner owe real estate taxes, personal property taxes or user charges on any property within the City of Portland, payment arrangements must be made before permit applications can be received by the Inspections Division.

Address of Proposed Development: 123 East Kidder Street		Zone: R5						
Total Square Footage of Proposed Structure: Footprint 1,232 square feet total (2 floors) 2,464 square feet		Square Footage of Lot: 9,636.22 square feet						
Tax Assessor's Chart, Block & Lot:	Property owner's mailing address:	Telephone #:						
<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Chart#</td> <td style="text-align: center;">Block#</td> <td style="text-align: center;">Lot#</td> </tr> <tr> <td style="text-align: center;">425</td> <td style="text-align: center;">I</td> <td style="text-align: center;">28, 31, 32</td> </tr> </table>	Chart#	Block#	Lot#	425	I	28, 31, 32	123 East Kidder Street Portland, Maine 04103	207-879-5971
Chart#	Block#	Lot#						
425	I	28, 31, 32						
Consultant/Agent, mailing address, phone # & contact person:	Applicant's name, mailing address, telephone #/Fax#/Pager#:	Project name:						
n/a	Jeffrey Lowery 123 East Kidder Street Portland, Maine 04103 tel: 207-879-5971 cellular: 207-939-0286 e-mail: loweryportland@hotmail.com	Lowery						
Proposed Development (check all that apply) <input checked="" type="checkbox"/> New Building <input type="checkbox"/> Building Addition <input type="checkbox"/> Change of Use <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Office <input type="checkbox"/> Retail <input type="checkbox"/> Manufacturing <input type="checkbox"/> Warehouse/Distribution <input type="checkbox"/> Parking lot <input type="checkbox"/> Subdivision (\$500.00) + amount of lots _____ (\$25.00 per lot) \$ _____ <input type="checkbox"/> Site Location of Development (\$3,000.00) (except for residential projects which shall be \$200.00 per lot _____) <input type="checkbox"/> Traffic Movement (\$1,000.00) <input type="checkbox"/> Stormwater Quality (\$250.00) <input type="checkbox"/> Section 14-403 Review (\$400.00 + \$25.00 per lot) <input type="checkbox"/> Other _____								
Major Development (more than 10,000 sq. ft.) <input type="checkbox"/> Under 50,000 sq. ft. (\$500.00) <input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000.00) <input type="checkbox"/> Parking Lots over 100 spaces (\$1,000.00) <input type="checkbox"/> 100,000 - 200,000 sq. ft. (\$2,000.00) <input type="checkbox"/> 200,000 - 300,000 sq. ft. (\$3,000.00) <input type="checkbox"/> Over 300,000 sq. ft. (\$5,000.00) <input type="checkbox"/> After-the-fact Review (\$1,000.00 + applicable application fee)								
Minor Site Plan Review <input checked="" type="checkbox"/> Less than 10,000 sq. ft. (\$400.00) <input type="checkbox"/> After-the-fact Review (\$1,000.00 + applicable application fee)								
Plan Amendments <input type="checkbox"/> Planning Staff Review (\$250.00) <input type="checkbox"/> Planning Board Review (\$500.00)								

- Please see next page -

Who billing will be sent to: (Company, Contact Person, Address, Phone #)

Jeffrey Lowery
123 East Kidder Street
Portland, Maine 04103
207-879-5971 (home)
207-939-0286 (cellular)

Submittals shall include (9) separate folded packets of the following:

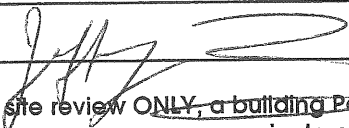
- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans check list

Amendment to Plans: Amendment applications should include 6 separate packets of the above (a, b, & c)
ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

Section 14-522 of the Zoning Ordinance outlines the process, copies are available at the counter at .50 per page (8.5 x11)
you may also visit the web site: ci.portland.me.us chapter 14

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant:



Date:

8/26/05

This application is for site review ONLY, a building Permit application and associated fees will be required prior to construction.

CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM

2005-0093

Application I. D. Number

DRC Copy

Jay Reynolds

5/2/2005

Application Date

Star Homes

Applicant

P.O. Box 2351, South Portland, ME 04116

Applicant's Mailing Address

Duplex

Project Name/Description

Consultant/Agent

Applicant Ph: (207) 409-6755

Agent Fax:

Applicant or Agent Daytime Telephone, Fax

123 - 123 E Kidder St, Portland, Maine

Address of Proposed Site

425 1028001

Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify)

2288 sq ft

9660.22

Proposed Building square Feet or # of Units

Acreage of Site

Zoning

Check Review Required:

- Site Plan (major/minor)
- Flood Hazard
- Zoning Conditional Use (ZBA/PB)
- Subdivision # of lots
- Shoreland
- Zoning Variance
- PAD Review
- Historic Preservation
- 14-403 Streets Review
- DEP Local Certification
- Other

Fees Paid: Site Pla \$50.00 Subdivision \$250.00 Engineer Review Date 5/2/2005

DRC Approval Status:

- Approved
- Approved w/Conditions See Attached
- Denied

Approval Date Approval Expiration Extension to Additional Sheets Attached

Condition Compliance signature date

Performance Guarantee Required* Not Required

* No building permit may be issued until a performance guarantee has been submitted as indicated below

- Performance Guarantee Accepted date amount expiration date
- Inspection Fee Paid date amount
- Building Permit Issue date
- Performance Guarantee Reduced date remaining balance signature
- Temporary Certificate of Occupancy date signature expiration date
- Final Inspection date signature
- Certificate Of Occupancy date
- Performance Guarantee Released date signature
- Defect Guarantee Submitted submitted date amount expiration date
- Defect Guarantee Released date signature

10:30

Be Frustaci

14-488B-3 Reserve Strip Alex

Billed As Single Family

14-488 Corner Lot MARGES?

5-31 Notice fees, Remove 1; Approve/Review Amend ordinance

[Handwritten scribble]



123 E. Kidder St.
2005-0111
miner SP
aluttes notice went to
Back immediate
Cove aluttes

JAY



PORTLAND MAINE

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

*Lee Urban- Director of Planning and Development
Marge Schmuckal, Zoning Administrator*

May 18, 2005

Jeff Lowery
123 E. Kidder Street
Portland, ME 04103

RE: 119 E. Kidder Street – 425-I-part of 28, 31, & 32 – R-5 Zone – application #050-506

Dear Jeff,

I am in receipt of your application to split the current lots that you own into two separate lots and to then build a new two unit building on the newly created lot. Your permit has been denied because your submittals are incomplete at this time in order to determine compliance with the City's ordinances.

Your submittal has not shown the required four (4) parking spaces on your plans. You need to provide four 9'x19' parking spaces. These parking spaces shall not be places within your required front yard setback.

Your site plan does not entirely match your building plans. Your building plans show two 5' x 10' rear decks with stairs extending toward the rear setback line. Your site plan does not show those extended stairs. It is important to show the exact dimension of the stairs. Your allowance to project into a required yard is limited to no more than 50 square feet, with a projection of no more than six (6) feet (section 14-425). Your proposal may be violating that allowance.

It has also been determined that your development falls under a subdivision review before the Planning Board. You must submit a subdivision packet to the planning department and receive approvals prior to the issuance of your new building permit.

Very truly yours,

Marge Schmuckal
Zoning Administrator

Cc: Sarah Hopkins, Planning
Jay Reynolds, Planning
File



PORTLAND MAINE

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

Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

Mr. Jeffery Lowery
123 East Kidder Road
Portland, ME 04103

September 30, 2005

Dear Mr. Lowery:

RE: Application for Minor Site Plan, 123 East Kidder Duplex
(CBL#425I028)(ID#2005-0198)

On September 30, 2005, the Portland Planning Authority granted minor site plan approval for the construction of a duplex in the vicinity of #123 East Kidder Street, with the following conditions:

1. *A Sewer capacity letter shall be obtained from the City's Wastewater Division. A Copy of the capacity letter shall be submitted to the planning division prior to issuance of building permit.*

Where submission drawings are available in electronic form, the applicant shall submit any available electronic cad (*.dwg) files.

The approval is based on the submitted site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

Please note the following provisions and requirements for all site plan approvals:

1. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. A one-year extension may be granted by this department if requested by the applicant in writing prior to the expiration date of the site plan.
2. A performance guarantee in a form acceptable to the City of Portland and an inspection fee equal to 2.0% of the performance guarantee will have to be posted before beginning any site construction or issuance of a building permit.
3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
DRC Copy**

2005-0198

Application I. D. Number

8/26/2005

Application Date

Two family house

Project Name/Description

Jeffrey Lowery

Applicant

123 E. Kidder Street, Portland, ME 04103

Applicant's Mailing Address

123 - 123 E. Kidder Street, Portland, Maine

Address of Proposed Site

425 i028

Assessor's Reference: Chart-Block-Lot

Consultant/Agent

Applicant Ph: (207) 879-5971 Agent Fax:

Applicant or Agent Daytime Telephone, Fax

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify) _____

2,464 s.f. R5

Proposed Building square Feet or # of Units Acreage of Site Zoning

Check Review Required:

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> Site Plan (major/minor) | <input type="checkbox"/> Subdivision # of lots _____ | <input type="checkbox"/> PAD Review | <input type="checkbox"/> 14-403 Streets Review |
| <input type="checkbox"/> Flood Hazard | <input type="checkbox"/> Shoreland | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional Use (ZBA/PB) | <input type="checkbox"/> Zoning Variance | <input type="checkbox"/> Other _____ | |

Fees Paid: Site Pla \$400.00 Subdivision _____ Engineer Review _____ Date 8/30/2005

DRC Approval Status:

Reviewer _____

- Approved Approved w/Conditions See Attached Denied

Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets Attached

Condition Compliance _____ signature _____ date _____

Performance Guarantee Required* Not Required

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- | | | | |
|---|----------------------------|--|-----------------------------|
| <input type="checkbox"/> Performance Guarantee Accepted | _____ date _____ | _____ amount _____ | _____ expiration date _____ |
| <input type="checkbox"/> Inspection Fee Paid | _____ date _____ | _____ amount _____ | |
| <input type="checkbox"/> Building Permit Issue | _____ date _____ | | |
| <input type="checkbox"/> Performance Guarantee Reduced | _____ date _____ | _____ remaining balance _____ | _____ signature _____ |
| <input type="checkbox"/> Temporary Certificate of Occupancy | _____ date _____ | <input type="checkbox"/> Conditions (See Attached) | _____ expiration date _____ |
| <input type="checkbox"/> Final Inspection | _____ date _____ | _____ signature _____ | |
| <input type="checkbox"/> Certificate Of Occupancy | _____ date _____ | | |
| <input type="checkbox"/> Performance Guarantee Released | _____ date _____ | _____ signature _____ | |
| <input type="checkbox"/> Defect Guarantee Submitted | _____ submitted date _____ | _____ amount _____ | _____ expiration date _____ |
| <input type="checkbox"/> Defect Guarantee Released | _____ date _____ | _____ signature _____ | |

Jeffrey and Ellen Lowery
123 East Kidder Street
Portland, Maine 04103
Tel: 207-879-5971 (home)
207-939-0286 (cellular)

August 26, 2005

City of Portland
389 Congress Street
Portland, Maine 04101

Re: Request for Site Plan Approval at 123 East Kidder Street
CBL # 425I028
ID # 2005-0093


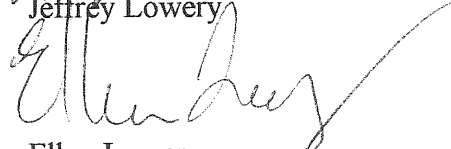
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Jay Reynold's letter of June 1, 2005 indicated the necessary changes to the originally submitted site plan application (submitted by Star Homes, Inc., a builder who had contracted to purchase the lot but defaulted on its contract), and we believe we have complied with all of the requirements. We are currently under contract to sell the lot to another builder, pending approval of the enclosed site plan application, and will be happy to provide you with a copy of the purchase and sale agreement if you wish.

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Best regards,


Jeffrey Lowery

Ellen Lowery

Enclosures:
Site Plan Application
Site Plan
\$400 minor site plan application fee

Who billing will be sent to: (Company, Contact Person, Address, Phone #)

Jeffrey Lowery
123 East Kidder Street
Portland, Maine 04103
207-879-5971 (home)
207-939-0286 (cellular)

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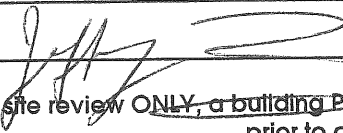
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ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

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you may also visit the web site: ci.portland.me.us chapter 14

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant:



Date:

8/26/05

This application is for site review ONLY, a building Permit application and associated fees will be required prior to construction.

- Sec. 14-395. Reserved.
- Sec. 14-396. Reserved.
- Sec. 14-397. Reserved.
- Sec. 14-398. Reserved.
- Sec. 14-399. Reserved.
- Sec. 14-400. Reserved.

DIVISION 24. USE REGULATIONS AND EXCEPTIONS

Sec. 14-401. Generally.

The requirements of this article shall be subject to the use regulations and exceptions of this division.
(Code 1968, § 602.18)

Sec. 14-402. Relationship of buildings to lots.

Every building hereafter erected shall be located on a lot as defined in section 14-47.
(Code 1968, § 602.18.A)

Sec. 14-403. Street access.

(a) *In general.* No building intended for use as a habitation shall be erected on a lot which has its only street frontage on a street less than thirty-five (35) feet wide. No building shall be erected on a lot, except on the islands in Casco Bay, which does not abut a street meeting the minimum requirements for street improvements set forth in this section. For purposes of this section, street shall be as defined in section 14-47, except that a dedicated street which may no longer be accepted due to lapse of time and an accepted street which may have been discontinued by abandonment shall also be deemed to be streets, provided that an applicant for a building permit respecting any lot abutting such street shall, without compensation or claim for damages, and at his own cost and expense, first submit to the building authority (a) a deed from the owner of such lot conveying to the city all his right, title and interest in and to such street or any portion thereof; and (b) an agreement by such owner forever releasing the city from any and all claims for damages for the laying out and taking of such street and indemnifying the city against any and all other such claims, both such instruments to be executed and in

recordable form acceptable to the corporation counsel and to encumber and run with the land.

(b) *Minimum requirements for street improvements on unimproved and improved but unpaved streets.* For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, shall be improved, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the public works authority pursuant to section 14-498(a) of article IV of this chapter. Where the nearest permanently paved street does not have granite curbing, the public works authority may waive the requirement of curbing under this section, if it determines that an acceptable alternative drainage plan will be provided. Prior to the issuance of a building permit for erection of a building on a lot abutting any portion of a street which is unimproved or improved but not permanently paved, the following shall occur: (1) A plan of the street improvements required by this section shall be submitted to the public works authority; and (2) upon determination by the public works authority that the plan meets the street improvement requirements established by this subsection, a performance guarantee and inspection fee for said improvements shall be submitted to the city as set forth in section 14-501. Also as set forth in section 14-501, a one-year defect bond shall be tendered to the city prior to release of the performance guarantee required hereby. The provisions of this subsection (b) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her intention under oath to make the structure his or her personal residence.

(c) *Exceptions.* The requirements of this section shall not apply to the following city streets upon their construction by the public works authority to such standards as are determined by the authority to be the most feasible:

- (1) Dingley Court;
- (2) Morgan Court.

From: "Jeffrey and Ellen Lowery" <loweryportland@hotmail.com>
To: <jayjr@portlandmaine.gov>
Date: Sun, May 29, 2005 1:48 PM
Subject: Application No. 050-506

(hard copy to follow)

May 28, 2005

Mr. Jay Reynolds
Development Review Coordinator
City of Portland Planning Division
389 Congress Street
Portland, Maine 04101

Re:
Application No. 050-506
Request for Building Permit on Property located between 119 and 123 E.
Kidder Street, Portland, submitted on May 2, 2005 by Star Homes, Inc.

Dear Jay:

Thanks again for hearing me out in person and thank you also for getting back to me so quickly last week. I am writing to outline a summary of my position on this matter: the development of a buildable parcel with frontage on East Kidder Street.

Because I have invested a lot of time and money to ensure that the parcel has the required setbacks and frontage as defined in the ordinance, and because our recent conversation left me with the understanding that your department might be inclined to reject the permit request, I wanted to put in writing the particular events and circumstances affecting this request, and ask that these circumstances be taken into account by the Planning Board in their revision of this matter.

My wife and I purchased our home at 123 East Kidder Street in the spring of 2003, and have lived in it since then. Our property is bordered by residential homes to the South, Kidder Street to the West, a wooded, grassy paper street (Grafton Street) to the North, and by a previously wooded R-5 lot to the East. Before purchasing our home we conferred with the Portland Zoning Office to inquire about the potential uses of the wooded R-5 lot, and were assured that it was extremely unlikely that anything could be placed there other than homes. Unfortunately, we were not aware, and were not informed by the City upon inquiry, of a developer's plans, which were at that time under review by the City, to take advantage of a variance in the R-5 ordinance that permits use as a parking lot. The developer had requested permission to take down the woods and construct a parking lot adjacent to a proposed new warehouse on neighboring Presumpscot Street. The developer's request for a variance was granted by the City within weeks of us purchasing our home, and the developer carried out his plans, drastically changing the character of our yard and reducing the value of our home. It goes without saying that we were devastated. The woods had provided a much-needed buffer from Presumpscot Street for us, and for many other residents of East Kidder Street.

After construction of the maximum-sized warehouse and parking lot which

functions as a turn-around for loading trucks was completed, we decided that the extra lot/yard no longer held value to us as part of our home. We conferred with our neighbors and learned that they would welcome the building of another home which would serve to block out the noise and lights of the Presumpscot Street industries. We began to pursue the possibility of dividing and selling our large yard to a home builder. We met several times with the Zoning Office and drew up, and frequently revised, the required plans, taking direction from the City and making all reasonable assurances that a building permit would be approved. We employed the services of a surveyor and an attorney to further ensure that we were acting within the law. On the issue of road frontage, Marge Schmuckal in the Zoning Office opined that, because the zoning ordinance does not specify or require a depth amount, the frontage we provided was within the ordinance. She suggested to our attorney that the setback on the frontage could technically be as small as one inch. With these reasonable assurances from the City Zoning Office as to the viability of our plan, we tore down our two car garage and greenhouse, constructed a fence delineating the new buildable lot, and put the property on the market. Star Homes, Inc. offered to purchase the lot to construct a two-family home. The buyer put the property under contract and submitted the permit request now before you at the beginning of May.

We felt very lucky that we were able to secure a buyer who would build a home on the parcel given the newly industrial appearance of the land. We, as well as our neighbors, anticipated the building of a new home as an attractive alternative to looking out upon the warehouse operation.

The cost of the development of the parcel, combined with a devaluation of our home resulting from the unsightly and often noisy warehouse operating next door, has left us anxious to sell the parcel. The sale of that land will buffer our home from the industrial zone and allow us to make improvements to the exterior of our home in an attempt to recoup its lost value and status. We would never have carried out the expensive and time consuming development of the parcel if we had had reason to believe that the Planning Board would take a more restrictive reading of the ordinance than the Zoning Department had taken.

Furthermore, we would never have altered our back yard to begin with if the Planning Board had not approved the development of the warehouse and parking lot (which entailed the destruction of a large wooded buffer) adjacent to the homes of our neighborhood. The City granted the developer a variance to construct the warehouse and parking lot despite the foreseeable consequences, namely the drastic changing of the landscape in an industrial direction, and the reduction of the home values and the residential character of this section of East Deering. The developer took advantage of the fact that many of the residential neighbors to the project are renters (with absentee landlords) or are elderly, and were not sufficiently aware of, or invested in, the situation to take a stand against the development. I do not make these points to express anger at the City for approving the project, as it is in the past and was approved, I believe, in the name of positive growth and development for Portland. However, it must be recognized that a consequence of the decision to approve the variance is that the land abutting the industrial lot is no longer suitable as a family yard for raising kids. Today the highest and best use of the lot is as a two-family rental home.

As an alternative to providing frontage on East Kidder Street, you suggested developing the paper South Grafton Street to provide frontage and access to the home. South Grafton Street is currently a grassy lot, dotted with trees and shrubs. It provides the last remaining buffer between our street and the industrial development on Presumpscot Street. It is used by families in this neighborhood for dog-walking and playing ball. It would be extremely costly, both monetarily and in terms of preserving the residential nature of East Deering, to tear down and pave this lovely, natural buffer in order to provide access to one home when there is a viable alternative available within the ordinance.

Finally, as you know, Portland needs additional rental housing. The proposed project would bring in more tax revenue for our city and would provide much-needed housing for two families in a neighborhood that's convenient to downtown Portland.

For these reasons, I respectfully urge you to approve this lot as acceptable and buildable. I would be grateful for any help you can give me in this process and I truly appreciate your time and attention in considering this matter. Please do not hesitate to call if you have any questions or suggestions of how I can help. Thank you.

Best regards,

Jeffery J. Lowery

cc: Sarah Hopkins, Planning Department

Jeffrey J. Lowery
123 East Kidder Street
Portland, Maine 04103
Telephone: 939-0286

May 28, 2005

Mr. Jay Reynolds
Development Review Coordinator
City of Portland Planning Division
389 Congress Street
Portland, Maine 04101

Re: Application No. 050-506
Request for Building Permit on Property located between 119 and 123 E. Kidder Street, Portland, submitted on May 2, 2005 by Star Homes, Inc.

Dear Jay:

Thanks again for hearing me out in person and thank you also for getting back to me so quickly last week. I am writing to outline a summary of my position on this matter: the development of a buildable parcel with frontage on East Kidder Street.

Because I have invested a lot of time and money to ensure that the parcel has the required setbacks and frontage as defined in the ordinance, and because our recent conversation left me with the understanding that your department might be inclined to reject the permit request, I wanted to put in writing the particular events and circumstances affecting this request, and ask that these circumstances be taken into account by the Planning Board in their revision of this matter.

My wife and I purchased our home at 123 East Kidder Street in the spring of 2003, and have lived in it since then. Our property is bordered by residential homes to the South, Kidder Street to the West, a wooded, grassy paper street (Grafton Street) to the North, and by a previously wooded R-5 lot to the East. Before purchasing our home we conferred with the Portland Zoning Office to inquire about the potential uses of the wooded R-5 lot, and were assured that it was extremely unlikely that anything could be placed there other than homes. Unfortunately, we were not aware, and were not informed by the City upon inquiry, of a developer's plans, which were at that time under review by the City, to take advantage of a variance in the R-5 ordinance that permits use as a parking lot. The developer had requested permission to take down the woods and construct a parking lot adjacent to a proposed new warehouse on neighboring Presumpscot Street. The developer's request for a variance was granted by the City within weeks of us purchasing our home, and the developer carried out his plans, drastically changing the character of our yard and reducing the value of our home. It goes without saying that we were devastated. The woods had provided a much-needed buffer from Presumpscot Street for us, and for many other residents of East Kidder Street.

After construction of the maximum-sized warehouse and parking lot which functions as a turn-around for loading trucks was completed, we decided that the extra lot/yard no longer held value to us as part of our home. We conferred with our neighbors and learned that they would welcome the building of another home which would serve to block out the noise and lights of the Presumpscot Street industries. We began to pursue the possibility of dividing and selling our large yard to a home builder. We met several times with the Zoning Office and drew up, and frequently revised, the required plans, taking direction from the City and making all reasonable assurances that a building permit would be approved. We employed the services of a surveyor and an attorney to further ensure that we were acting within the law. On the issue of road frontage, Marge Schmuckal in the Zoning Office opined that, because the zoning ordinance does not specify or require a depth amount, the frontage we provided was within the ordinance. She suggested to our attorney that the setback on the frontage could technically be as small as one inch. With these reasonable assurances from the City Zoning Office as to the viability of our plan, we tore down our two car garage and greenhouse, constructed a fence delineating the new buildable lot, and put the property on the market. Star Homes, Inc. offered to purchase the lot to construct a two-family home. The buyer put the property under contract and submitted the permit request now before you at the beginning of May.

We felt very lucky that we were able to secure a buyer who would build a home on the parcel given the newly industrial appearance of the land. We, as well as our neighbors, anticipated the building of a new home as an attractive alternative to looking out upon the warehouse operation.

The cost of the development of the parcel, combined with a devaluation of our home resulting from the unsightly and often noisy warehouse operating next door, has left us anxious to sell the parcel. The sale of that land will buffer our home from the industrial zone and allow us to make improvements to the exterior of our home in an attempt to recoup its lost value and status. We would never have carried out the expensive and time consuming development of the parcel if we had had reason to believe that the Planning Board would take a more restrictive reading of the ordinance than the Zoning Department had taken.

Furthermore, we would never have altered our back yard to begin with if the Planning Board had not approved the development of the warehouse and parking lot (which entailed the destruction of a large wooded buffer) adjacent to the homes of our neighborhood. The City granted the developer a variance to construct the warehouse and parking lot despite the foreseeable consequences, namely the drastic changing of the landscape in an industrial direction, and the reduction of the home values and the residential character of this section of East Deering. The developer took advantage of the fact that many of the residential neighbors to the project are renters (with absentee landlords) or are elderly, and were not sufficiently aware of, or invested in, the situation to take a stand against the development. I do not make these points to express anger at the City for approving the project, as it is in the past and was approved, I believe, in the

name of positive growth and development for Portland. However, it must be recognized that a consequence of the decision to approve the variance is that the land abutting the industrial lot is no longer suitable as a family yard for raising kids. Today the highest and best use of the lot is as a two-family rental home.

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Finally, as you know, Portland needs additional rental housing. The proposed project would bring in more tax revenue for our city and would provide much-needed housing for two families in a neighborhood that's convenient to downtown Portland.

For these reasons, I respectfully urge you to approve this lot as acceptable and buildable. I would be grateful for any help you can give me in this process and I truly appreciate your time and attention in considering this matter. Please do not hesitate to call if you have any questions or suggestions of how I can help. Thank you.

Best regards,

A handwritten signature in black ink, appearing to read "Jeffery J. Lowery", written over a horizontal line.

Jeffery J. Lowery

cc: Sarah Hopkins, Planning Department



PORTLAND MAINE

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Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

Jeffery and Ellen Lowery
123 East Kidder Street
Portland, ME 04103

June 1, 2005

Dear Mr. and Mrs. Lowery:

RE: Application for Minor Site Plan, 117-119 East Kidder Street
(CBL #425I028) (ID#2005-0093)

Thank you for your application for the 117-119 East Kidder Street Duplex. Upon review, the City has the following comments:

1. The application was errantly accepted as a single-family development. The duplex proposal must be applied for as a 'minor site plan'. Please re-apply through the planning office. Enclosed is a packet, which specifies the submission requirements for minor site plan.
2. After further review, the proposal does not appear to be a subdivision.
3. Pertaining to the lot configuration, it appears that the 1-foot strip of land along East Kidder Street is not required for street frontage, as per section 14-403 of the land use code. Please remove this lot line.
**It is important to note that this application has prompted the City to amend the ordinance to address this design/lot configuration in the future.
4. Please provide a 20-scale site plan to provide better definition of the site.
5. Along with the parking requirements stated in Marge Schmuckal's letter, you will have to show the required parking for the existing 2 unit (4 spaces at 9'x19') on the site plan. Please shade in the parking/paved areas so that it is clear on the site plan.
6. Curbing and Sidewalk installation is a requirement for minor site plan. Please add to the plan, or if you wish to request a waiver of the standard, you must request a waiver and meet the criteria set forth in the enclosed standards.
7. Engineering review/Public Works comments will be forthcoming.
8. Two street trees per unit are required along your street frontage. Please revise. Also, the landscaping legend is unclear as to what designates a spruce and what designates ground cover (asterisk *). Please clarify.
9. A narrative addressing the following design standards will need to be submitted.
 - i. Orientation: The City's design standards require that new two-family buildings be oriented toward the street (Sec. 14-526,15, a, 2).

- ii. Roof Pitch: A minimum of 7:12 roof pitch is required for two-family buildings.

Please feel free to call me at 874-8632 if you have any questions or comments.

Sincerely,



Jay Reynolds
Development Review Coordinator

cc: Sarah Hopkins, Development Review Services Manager
Alexander Jaegerman, Planning Division Director
Penny Littell, Associate Corporation Counsel
Marge Schmuckal, Zoning Administrator
Michael Nugent, Inspection Services Manager
Joseph Frustaci, Star Homes, PO Box 2351, South Portland, ME 04116