

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Jeff Levine
Director Planning & Urban Development



CITY OF PORTLAND
ZONING BOARD OF APPEALS
Variance Appeal Application

Applicant Information:

Nick Mavodones, Operations Manager
Hank Berg, General Manager

NAME

Casco Bay Island Transit District

BUSINESS NAME

P.O. Box 4656

ADDRESS

Portland, ME 04112-4656

(207)774-7871

TELEPHONE #

Lessee

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

Eastern Waterfront Port Zone

CURRENT ZONING DESIGNATION

EXISTING USE OF PROPERTY:

Casco Bay Ferry Terminal

Subject Property Information

56 Commercial Street

PROPERTY ADDRESS

444/A/1

CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (if different)

City of Portland

NAME

389 Congress Street

ADDRESS

Portland, ME 04101

VARIANCE FROM
SECTION 14 - 303(c)4

RECEIVED

DEC 17 2012

Dept. of Building Inspections
City of Portland Maine

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.

Casco Bay Island Transit District

SIGNATURE OF APPLICANT
General Manager

DATE

12-17-12

Department of Planning & Urban Development

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ZONING BOARD OF APPEALS
Variance Appeal Application

Except as specifically provided by the Ordinance, a variance may be granted by the Board of Appeals ONLY where strict application of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. In order for the Board to find "undue hardship" the applicant must answer ALL of the following questions and provide supporting evidence. The Board will consider this evidence in deciding whether to grant the appeal.

1. The land in question cannot yield a reasonable return unless a variance is granted.
 [NOTE: "failure to yield a 'reasonable return' means 'the practical loss of all beneficial use of the land...Reasonable return DOES NOT mean maximum return" *Rowe v. City of South Portland, 730 A.2d 673, 675 (ME 1999) (citations omitted.)*]

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

Please see attached letter for response.

2. The need for a variance is due to the unique circumstances of the property and NOT to the general conditions of the neighborhood.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

Please see attached letter for response.

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ZONING BOARD OF APPEALS
Variance Appeal Application

3. The granting of a variance will NOT alter the essential character of the locality.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

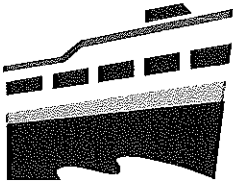
Please see attached letter for response.

4. The hardship is NOT the result of action taken by the applicant or a prior owner.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

Please see attached letter for response.



Casco Bay Lines

P.O. Box 4656, Portland, Maine 04112

December 17, 2012

Zoning Board of Appeals
City of Portland
389 Congress Street, Room 315
Portland, ME 04101

**RE: Casco Bay Island Transit District – Casco Bay Ferry Terminal
Improvements**

Dear Zoning Board of Appeals:

Enclosed please find our application for a variance related to the reconstruction of the Casco Bay Ferry Terminal. Prior hereto plans and specifications for the terminal project have been submitted for project review to the Portland Planning staff. Since any alterations to the terminal building must also be submitted to the City of Portland for its approval as lessor, such approval has now been sought and granted. The Casco Bay Island Transit District submits the enclosed Variance Appeal Application to the Zoning Board of Appeals for a small variance from the dimensional standards of the Eastern Waterfront Port Zone.

Project Background

The Casco Bay Ferry Terminal (“Terminal”) is located at 56 Commercial Street and is operated by the Casco Bay Island Transit District (CBITD), a quasi-municipal non-profit organization. The Terminal was built in 1988, and continues to provide terminal services for passengers, vehicles and freight between Portland and the islands of Casco Bay. When the Terminal was first constructed, ferry service was provided primarily from the terminal’s Gates 1, 2, and 3. The building’s waiting room was located in the middle of the terminal building, close to these gates, providing visibility of and easy access to the gates for passengers waiting for their boats.

Today, with newer, larger boats in service, and ridership more than double what it was 24 years ago, activity has shifted towards the outer end of the pier where Gates 4 and 5 are located. The facility’s waiting room is no longer convenient for passengers who are unable to see the boats at these gates as they wait. The increase in the number of people using the facility has put a strain on the space, where passengers

may now experience long lines for ticket purchases, insufficient seating, and insufficient restrooms.

A need for improvements to the existing facility was identified, and in 2011, a Master Plan was commissioned by CBITD. After collaboration with CBITD and review by the City of Portland Planning staff, in June 2012 Scott Simons Architects, in conjunction with Woodard & Curran, Fay, Spoffard, & Thorndike, Child's Engineering, Allied Engineering, and Becker Structural Engineering, presented a facility master plan. The plan called for the renovation and expansion of the existing terminal building, associated site work around the modified building, marine infrastructure maintenance, and pedestrian and landscaping improvements. The Master Plan broke out improvements into multiple phases. This variance request is being submitted in relation to work being proposed as Phase 1 of the Master Plan. A Level II Final Site Plan application has also been submitted to the City of Portland Planning Department for this work.

Phase I of the CBITD Terminal Master Plan includes a building expansion and renovation and marine improvements. The intent of the project will be to modify the existing facility to improve the level of service provided annually to the nearly one million people who currently use the facility's ferry services. There will be no change of use and existing services will be relocated within the building to more effectively utilize the facility's space. The proposed improvements include, among other aspects, the construction of a building expansion (approximately 3,000 square feet) to contain a new terminal waiting room, new ticket office, new freight office, and new restrooms for passengers and employees. This building expansion is the subject of our variance appeal application.

Zoning Dimensional Standards

The existing Casco Bay Ferry Terminal and its proposed expansion are located within the Eastern Waterfront Port Zone (EWPZ). First enacted in 2006, the EWPZ requires a minimum building setback of 25 feet from the pier edge (City of Portland Land Use Code Section 14-303(c)1). The facility is also located in the Shoreland Zone; however, no additional setback requirements are set by this zone.

Prior to changes to the Zoning Ordinance in 2006, the facility was located within the Waterfront Port Development Zone. The dimensional standards of this zone required a minimum pier edge setback of 5 feet.

Proposed Construction

The approximately 3,000 square foot building expansion is proposed for the southeast end of the facility (See attached Sketch Plan as showing location of existing structure

and roof overhangs and proposed expansion). All proposed work will be taking place within the footprint of the existing concrete pier. The enclosed plans include a site plan that shows the location of the existing building and roof overhangs as well as floor and elevation plans of the building expansion. Photographs of the area are also attached.

A portion of the existing building and its roof overhang will be demolished prior to construction of the new building area. The existing roof overhang is currently founded on marine piles that extend through the concrete pier deck (See photographs 1 and 2 attached). The proposed building expansion will be supported by the existing grade beams and pile caps on these piles (See photographs 3 and 4 attached). With the location of these existing piles, the proposed building will not be able to achieve the minimum 25-foot pier edge setback of the EWPZ. To utilize the existing pile support structure, the building edge is proposed 22 feet from the pier edge.

Variance Appeal

This Variance Appeal Application is from the dimensional standards of the EWPZ. Specifically, we request a variance from the pier edge setback provided in the City of Portland Land Use Code Section 14-303(c)1. We request a change of the setback from 25 feet to 22 feet for the wall that is 40 feet long. In support of this request, we have answered the following four questions included on the Zoning Board of Appeals Variance Appeal Application:

1. The land in question cannot yield a reasonable return unless a variance is granted.

In this case, the question of what a "reasonable return" is must be understood in a different context than the norm. CBITD is a not-for-profit, tax exempt, quasi-governmental agency. The property in question belongs to the City of Portland, and is leased to CBITD. Their collective customers are the public using the services of Casco Bay Lines. Viewed in that light, the issue is whether it is unreasonable to require the applicants to construct the proposed expansion of the public waiting room in a manner which would require significantly greater expense than that proposed here. There is no question that the passenger waiting area needs to be expanded: ridership has more than doubled since the existing waiting room was established in 1985 and the locations of the principal berthing area for the ferries have changed. The short wall for which the variance is requested is located to take advantage of the existing piling substructure which can bear the wall's weight. These pilings currently support a line of columns which support the existing terminal roof. The proposed wall follows those columns, which viewed in and of themselves have the appearance of a wall (See photographs 1 & 2). To locate the wall anywhere else would require significant additional expense, principally in the form of adding new under-pier reinforcement and reinforcing pilings to support the wall, together with a substantial

additional permitting process. This is neither practical nor sensible in the context of the existing facilities at the site. For a non-profit operation such as Casco Bay Lines, failure to grant the variance would result in a negative impact, i.e. "return" on its facilities because of the significant additional cost which would ultimately have to be borne by the ticket buying public.

2. The need for a variance is due to the unique circumstances of the property and NOT to the general conditions of the neighborhood.

As noted above, the need for this variance springs from the existing condition of the property and is in no way affected or caused by the general condition of the wharf or its neighboring wharves.

3. The granting of a variance will not alter the essential character of the locality.

The granting of the requested setback variance by three feet will not alter the character of the area. The City of Portland owns the entire pier, and all the structures on it. The expansion consists principally of an addition and relocation of the existing passenger waiting area. There is no proposed change of use ("ferry terminal" is a permitted use with the Eastern Waterfront Port Zone). The result will be an improved terminal facility for the passengers utilizing the terminal, which today is now outmoded and badly in need of upgrading. However, at the end of the day, it will still be a ferry terminal. See photographs 3 and 4 for the perspective of the full side of the terminal.

4. The hardship is not the result of action taken by the applicant or a prior owner.

It is not known when the existing structural pilings were installed beneath the existing wharf. The terminal building was erected beginning in 1986. It is known that the structural pilings currently support columns that hold up the existing building's roof. It is also important to note that at the time that the existing terminal was constructed the authorized setback from the pier edge was five feet, as established by the then dimensional requirements of the Waterfront Port Development Zone (WPDZ). The zoning was changed in 2006 to the existing "Eastern Waterfront Port Zone." The ferry terminal had been designed with significant pedestrian access to the area between the building and the pier edge in mind: passengers leaving the terminal must walk up and down the wharf to arrive at the gangway for the particular ferry boat they are boarding. The proposed variance will in no way hinder that access. While there will continue to be an overhang from the roof (to protect passengers from adverse weather), the roof overhang itself is not subject to the pier setback requirements in the Eastern Waterfront Zone.

Conclusion

Accordingly, the applicant requests the granting of the variance to allow the construction of a wall approximately 40 feet in length along a line of existing columns to support a portion of the expanded passenger waiting area at the Casco Bay Ferry Terminal. The extent of the dimensional variance requested is three feet, so that the wall in question would be twenty-two feet from the pier edge, supported by an existing row of structural pilings. This variance will allow for the construction of much needed improvements to the Casco Bay Ferry Terminal, providing a new more useable waiting room for the facility's many passengers.

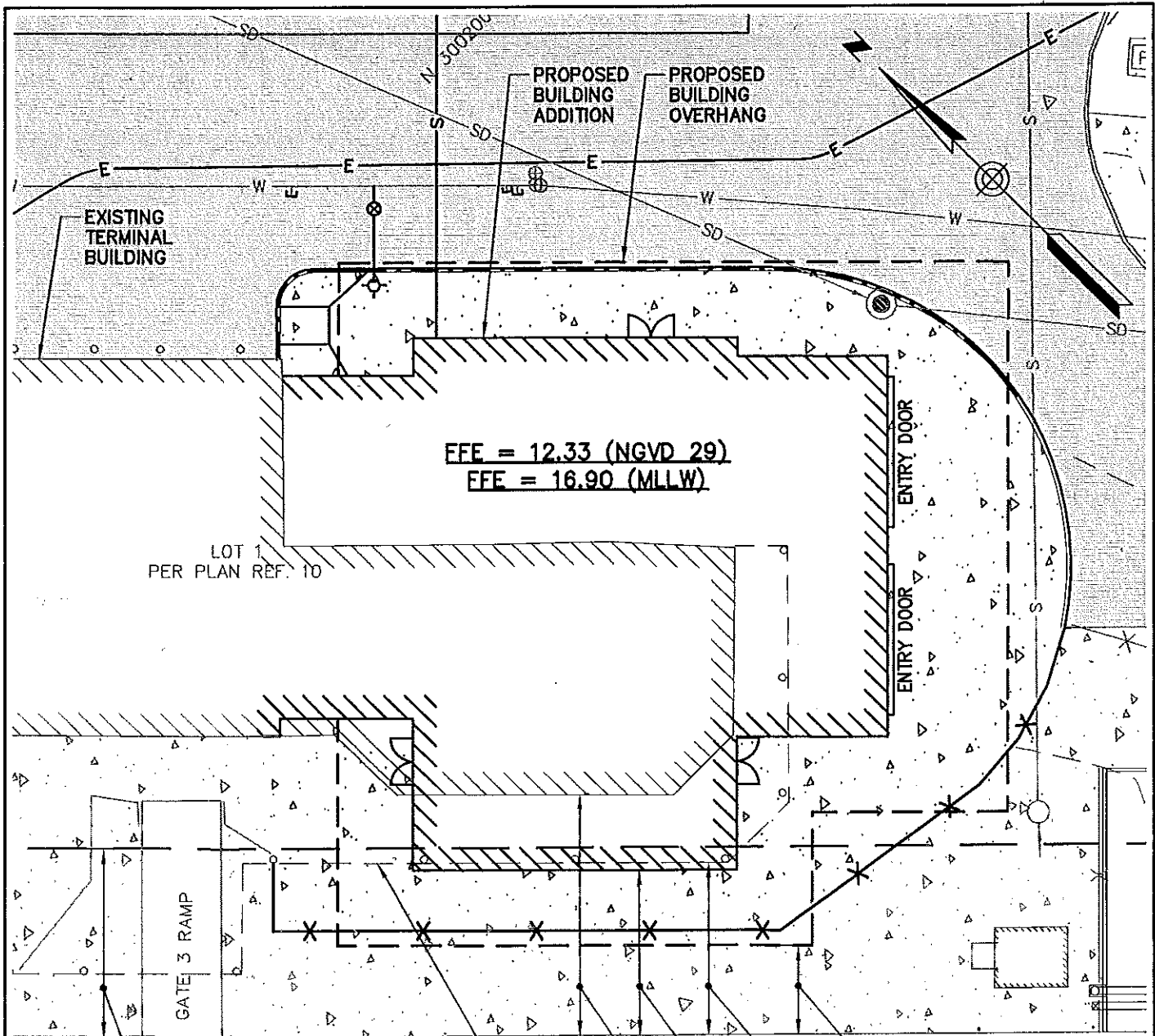
We look forward to discussing the project with you further. If you have any questions about the application and the enclosed supporting information, please do not hesitate to contact Hank Berg at (207) 774-7871 or by email at hankb@cascobaylines.com.

Casco Bay Island Transit District

By: 
Hank Berg
Its: General Manager

- Enclosures:
1. Plan of Proposed Building Alterations (Figure 1)
 2. Mark up of Plan 1 Showing Existing and Proposed Walls and Roof Lines
 3. Photographs 1 through 4 Showing Existing Area
 4. Site Plan Submitted to City of Portland Planning Department (minor site plan - staff review only required)
 5. Approval Letter from Lessor (City of Portland)
 6. Approval and Request for Support from the State of Maine as abutter owning the submerged lands

cc: Mark Rees, City Manager (w/o enc.)
Lauren Swett, P.E. (w/o enc.)
Nicholas M. Mavodones (w/o enc.)
Peter S. Plumb, Esq. (w/o enc.)



25' BUILDING SETBACK FROM
PIER LINE (PER EWPZ
DIMENSIONAL REQUIREMENTS)

EXISTING
BUILDING
OVERHANG

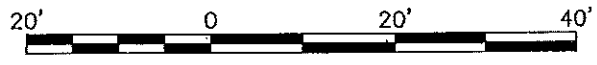
PROPOSED BUILDING
OVERHANG, 12' FROM
PIER EDGE

EXISTING BUILDING
OVERHANG, 23' FROM
PIER EDGE

PROPOSED BUILDING EDGE,
22' FROM PIER EDGE

EXISTING BUILDING EDGE,
32' FROM PIER EDGE

EWPZ DIMENSIONAL REQUIREMENTS		
	REQUIRED	PROVIDED
FRONT YARD SETBACK	NONE	NOT APPLICABLE
SIDE YARD SETBACK	NONE	NOT APPLICABLE
REAR YARD SETBACK	NONE	NOT APPLICABLE
SETBACK FROM PIER LINE	25 FT.	22 FT.
LOT SIZE	NONE	2.4± ACRES
STREET FRONTAGE	NONE	NOT APPLICABLE
MAX. IMPERVIOUS SURFACE	100%	< 100%
MAX. BUILDING HEIGHT	45 FT.	21 FT.



BAR SCALE
1" = 20'
CHECK GRAPHIC SCALE BEFORE USING

41 Hutchins Drive
Portland, Maine 04102
603.426.4262 | www.woodardcurran.com

COMMITMENT & INTEGRITY DRIVE RESULTS

ZONING SETBACK ANALYSIS

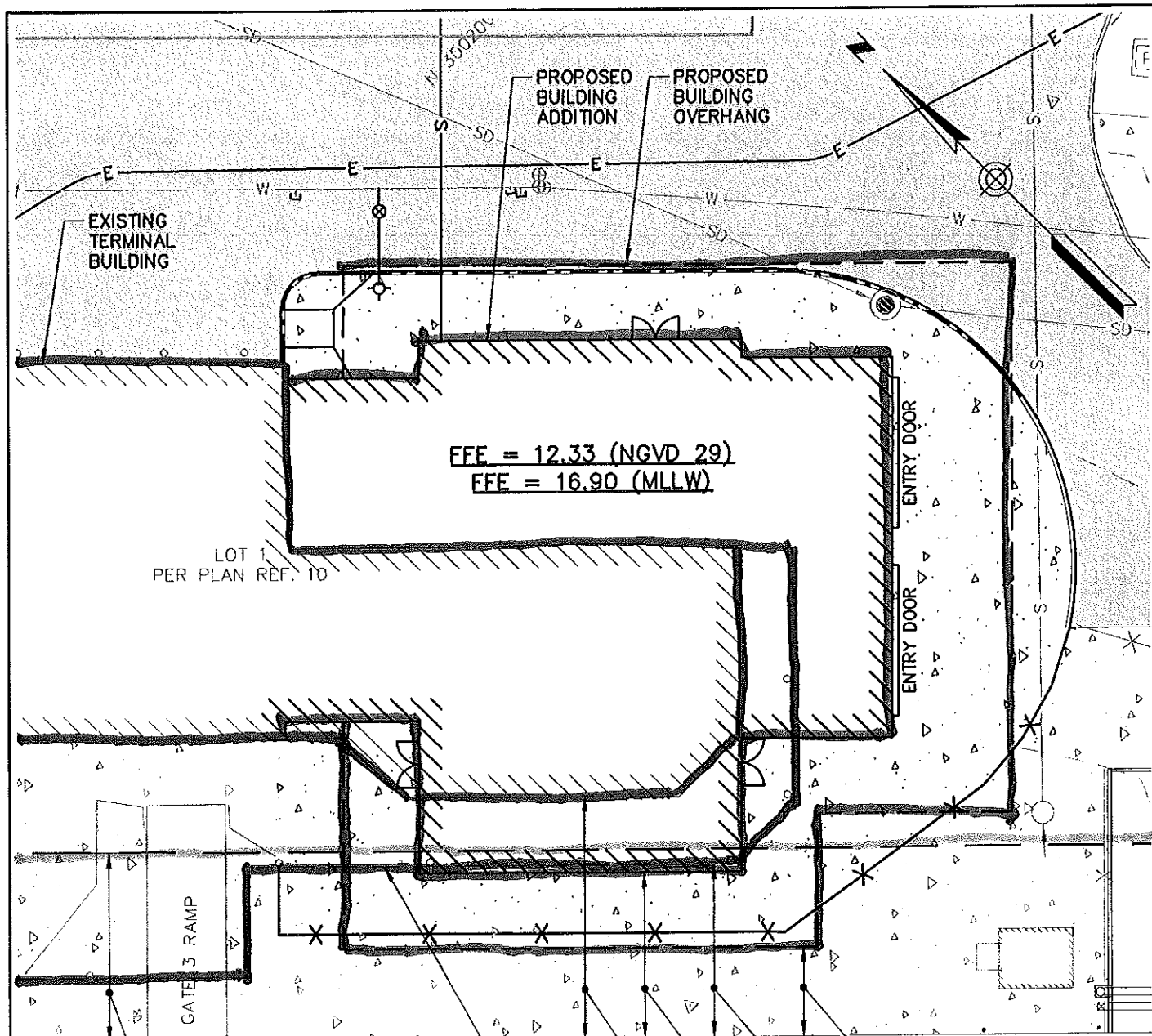
DESIGNED BY: LJS CHECKED BY: DAS
DRAWN BY: JBC 20381901-C200A.DWG

CASCO BAY ISLAND TRANSIT DISTRICT
66 COMMERCIAL STREET
PORTLAND, ME 04101

CASCO BAY FERRY
TERMINAL IMPROVEMENTS

JOB NO: 224974.01
DATE: OCTOBER 2012
SCALE: 1" = 20'

Figure 1



LOT 1
PER PLAN REF. 10

FFE = 12.33 (NGVD 29)
EFE = 16.90 (MLLW)

25' BUILDING SETBACK FROM
PIER LINE (PER EWPZ
DIMENSIONAL REQUIREMENTS)

EXISTING
BUILDING
OVERHANG

PROPOSED BUILDING
OVERHANG, 12' FROM
PIER EDGE

EXISTING BUILDING
OVERHANG, 23' FROM
PIER EDGE

PROPOSED BUILDING EDGE,
22' FROM PIER EDGE

EXISTING BUILDING EDGE,
32' FROM PIER EDGE

EWPZ DIMENSIONAL REQUIREMENTS

	REQUIRED	PROVIDED
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SIDE YARD SETBACK	NONE	NOT APPLICABLE
REAR YARD SETBACK	NONE	NOT APPLICABLE
SETBACK FROM PIER LINE	25 FT.	22 FT.
LOT SIZE	NONE	2.4± ACRES
STREET FRONTAGE	NONE	NOT APPLICABLE
MAX. IMPERVIOUS SURFACE	100%	< 100%
MAX. BUILDING HEIGHT	45 FT.	21 FT.



BAR SCALE
1" = 20'

CHECK GRAPHIC SCALE BEFORE USING



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Portland, Maine 04102
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COMMITMENT & INTEGRITY DRIVES RESULTS

ZONING SETBACK ANALYSIS

DESIGNED BY: LJS CHECKED BY: DAS
DRAWN BY: JBC 20381901-C200A.DWG

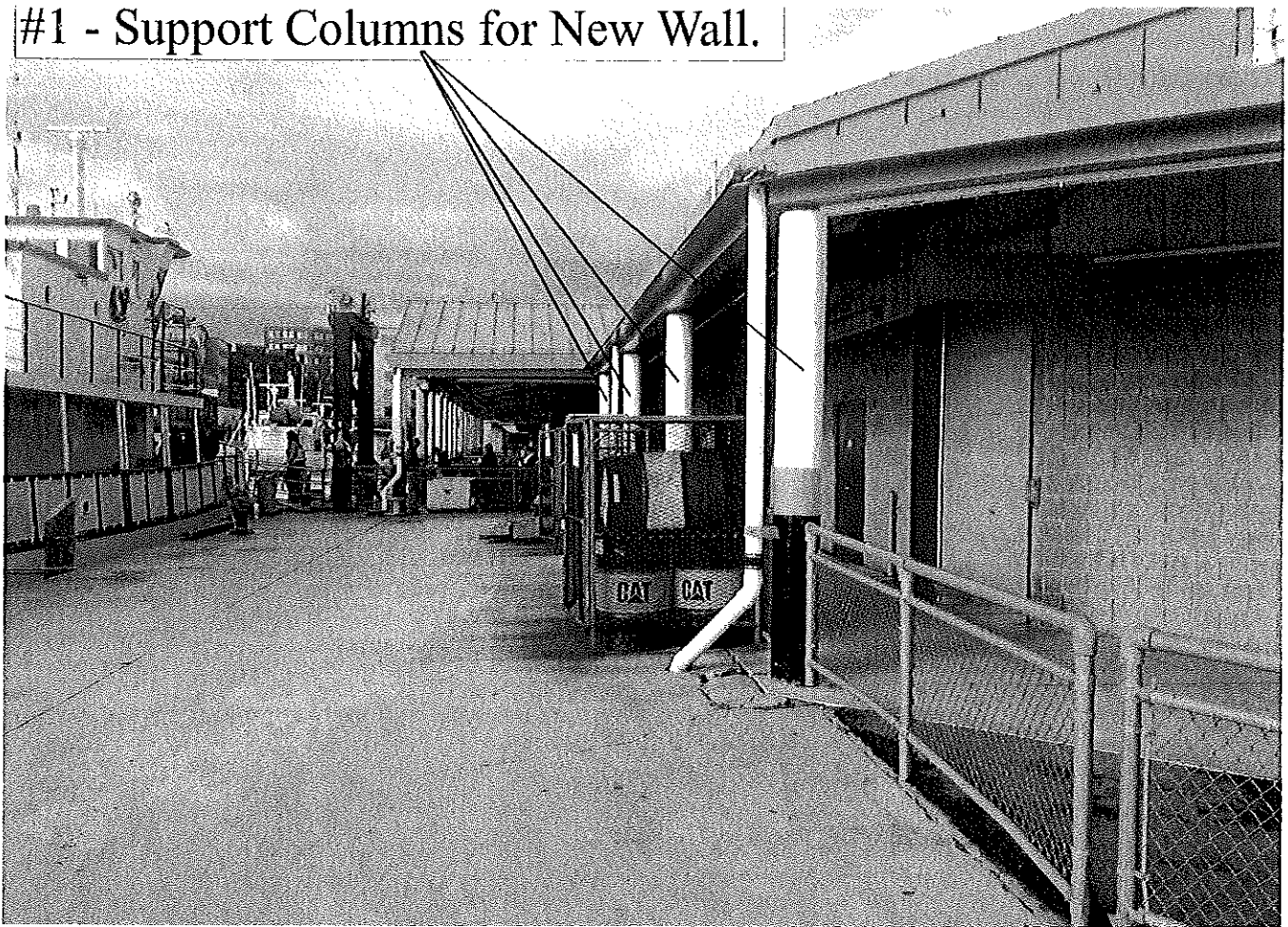
CASCO BAY ISLAND TRANSIT DISTRICT
56 COMMERCIAL STREET
PORTLAND, ME 04101

CASCO BAY FERRY
TERMINAL IMPROVEMENTS

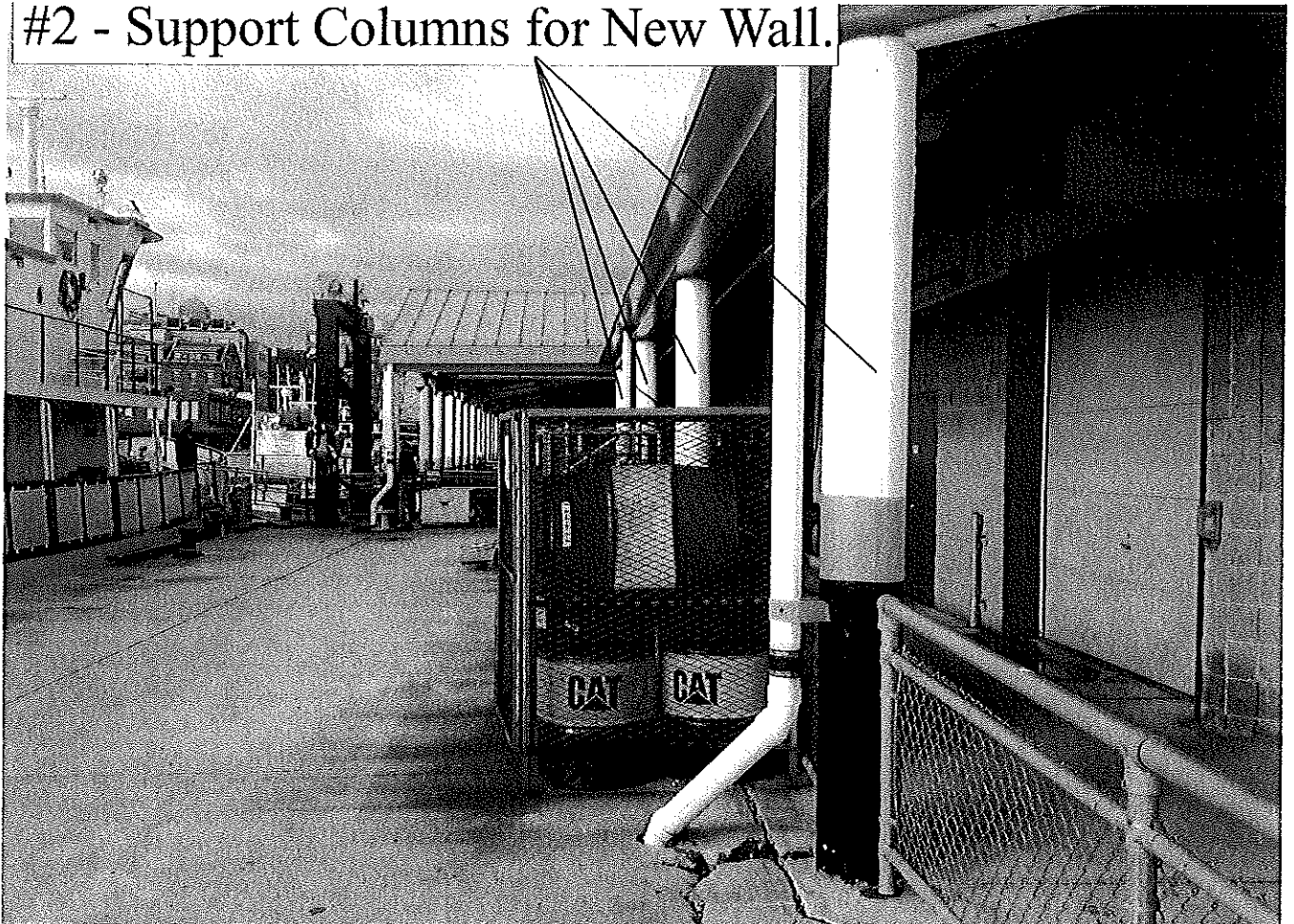
JOB NO: 224974.01
DATE: OCTOBER 2012
SCALE: 1" = 20'

Figure 1

#1 - Support Columns for New Wall.



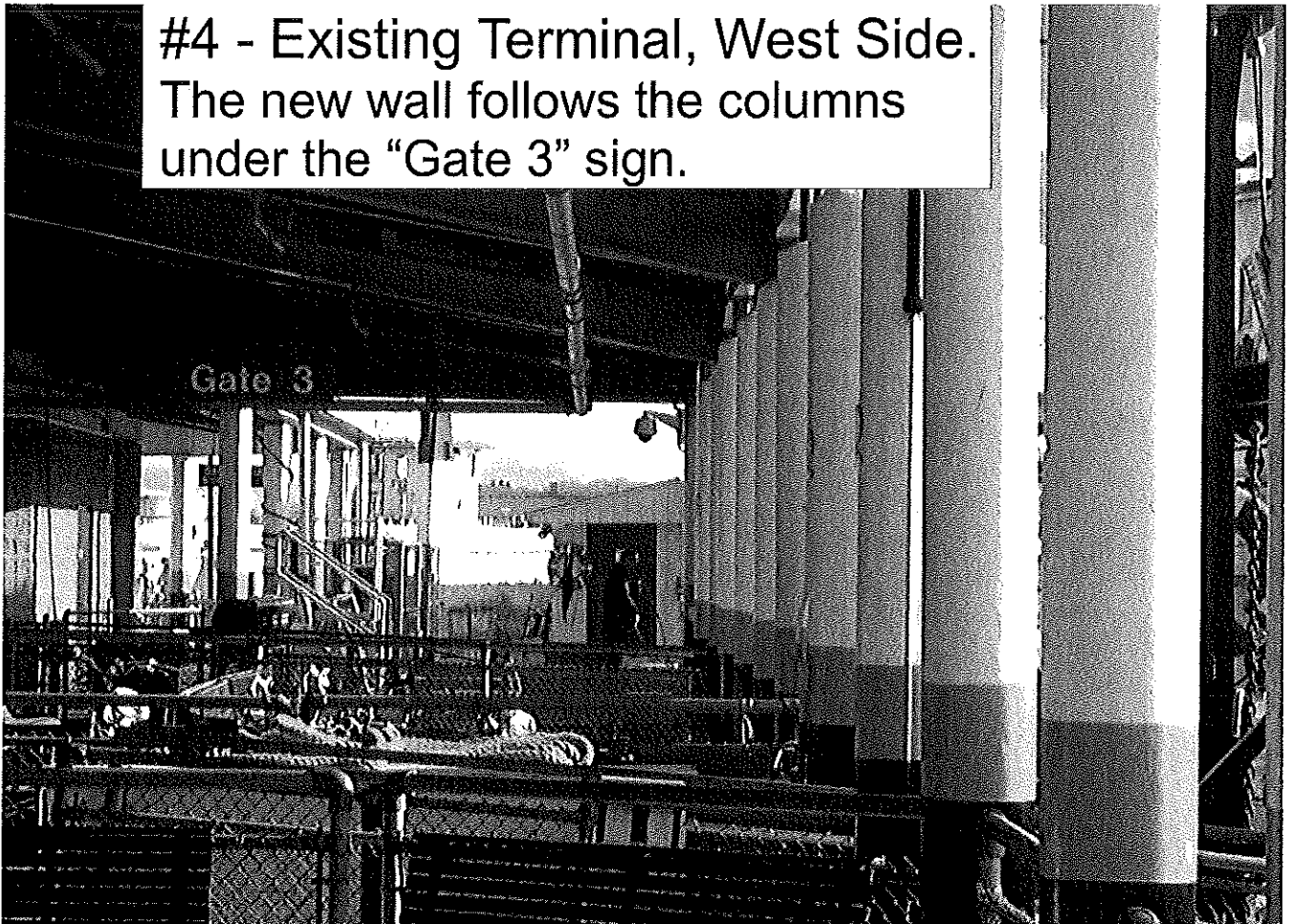
#2 - Support Columns for New Wall.

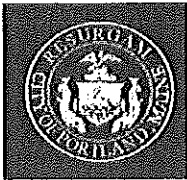


#3 - Existing Terminal, West Side.



#4 - Existing Terminal, West Side.
The new wall follows the columns
under the "Gate 3" sign.





PORTLAND MAINE

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EXECUTIVE DEPARTMENT
Mark H. Rees, City Manager

December 14, 2012

Chair Gordon Smith and Members of the Zoning Board of Appeals
Portland City Hall
389 Congress Square
Portland, ME 04101

Dear Chair Smith and Members,

This letter is written in support of the variance request by the Casco Bay Island Transit District (CBITD) relating to their expansion and renovation project on their mainland terminal. We understand that the actual variance request has to do with a relatively minor setback revision; however, the variance is crucial towards making the overall design of the project work effectively for the public who use the island ferry service.

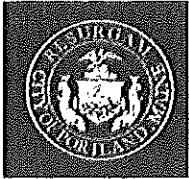
The City of Portland views the CBITD as a crucial partner ensuring safe and dependable transportation between the mainland and our island communities, as well as, an important component of our tourism industry. The proposed improvements to the terminal building will only serve to enhance those vital components of our partnership.

Thank you for your consideration and do not hesitate to contact me should you have any questions.

Sincerely,

Mark H. Rees
City Manager

Cc: Mayor Brennan and City Council
Henry Berg, General Manager CBITD



PORTLAND MAINE

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EXECUTIVE DEPARTMENT
Mark H. Rees, City Manager

December 14, 2012

Re: Casco Bay Island Transit District Expansion

Dear Chair Gordon Smith and Members of the ZBA,

As required by the Casco Bay Island Transit District ("CBITD") Lease Article 4D, the City hereby expresses its consent to the proposed expansion of the CBITD building.

Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Mark H. Rees".

Mark H. Rees
City Manager

December 14, 2012

Zoning Board of Appeals
City of Portland
389 Congress Street
Portland, ME 04101

**Re: Expansion of Terminal Facility for Casco Bay Lines
Maine Wharf, Portland, Maine**

Dear Zoning Board of Appeals:

This letter will serve as notice that the Maine Department of Transportation is in support of the Casco Bay Lines project to expand its existing ferry terminal on Maine Wharf in Portland.

Further, this letter will serve to notify that the State of Maine, Department of Transportation will be reviewing the construction plans for the expansion and requests that the Variance sought by Casco Bay Lines be approved. Were the Variance not to be granted, it would be necessary to add significant additional piling support for the new terminal wall, which would require additional (and in our view unnecessary) permitting from both the Army Corps and the State of Maine as well as increased cost and delay in the project. Thus we hope that the request for the Variance will be granted.

Very truly yours,



Maine Department of Transportation,
Multimodal Program, Project Manager