

CITY OF PORTLAND, MAINE

BOARD OF APPEALS

November 2, 1948

TO WHOM IT MAY CONCERN:

The Board of Appeals will hold a public hearing in the Council Chamber, City Hall, Portland, Maine on Friday, November 12, 1948 at ten-thirty o'clock in the forenoon to hear the appeal under the Zoning Ordinance of Mrs. James DiBiase requesting exception to the Ordinance to permit construction of addition to store attached to dwelling house at 73 Merrill Street.

This permit is not issuable because the store is a non-conforming use in the Apartment House Zone where it is located and as such is not allowed to be increased in volume, as set forth in Section 14-A of the Zoning Ordinance. Also, the addition is proposed only about three feet from the side lot line, whereas a distance from that line of at least ten feet is specified by Section 8C of the Ordinance for any new work in the Apartment House Zone.

This appeal is taken under Section 17E of the Zoning Ordinance which provides that the Board of Appeals, by unanimous vote of its members, may permit exceptions in specific cases so as to grant reasonable use of property where necessary to avoid confiscation and without substantially departing from the intent and purpose of the Zoning Ordinance, subject always to the rule that said Board shall give due consideration to promoting public health, safety, convenience and welfare, encouraging the most appropriate use of land and conserving property values, that it shall permit no building or use injurious, noxious, offensive or detrimental to a neighborhood, and that it shall prescribe appropriate conditions and safeguards in each case.

All persons interested either for or against this appeal will be heard at the above time and place, this notice of required public hearing having been sent to the owners of property within 500 feet of the premises in question as required by law.

BOARD OF APPEALS

Robert L. Getchell

Chairman



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CITY OF PORTLAND, MAINE
LEGAL DEPARTMENT

November 8, 1948

TO THE BOARD OF APPEALS:

The Board of Appeals will hold a public hearing in the Council Chamber, Friday, November 12, 1948 at ten-thirty o'clock in the forenoon to hear the following appeals:

Mrs. James DiBiase - 73 Merrill Street - Addition to store attached to dwelling which is not permissible because store is presently non-conforming use.

John Donnelly & Sons - 170 York Street - Erection of outdoor advertising sign 12' x 50' not permissible in Limited Business Zone.

(see attached notices for complete details)

Mrs. Catherine McIntyre - 46 Myrtle Street - erection of fire escape not permissible because it would be closer than the minimum side yard distance of ten feet required in case of an apartment house in a Limited Business and Apartment House Zone where property is located.

Mrs. Viola E. Rooney - 20 Cedar Street - Proposed new addition to building 12' x 21' to replace present addition 12' x 30' is not permissible because it will be erected only five feet from the side lot line whereas a minimum distance of 10 feet is required for any new work in an Apartment House Zone.

At the same time the Municipal Officers will also hold a public hearing on the following appeals:

Randall & McAllister - Construction of coal storage shelter at 77 Commercial Street is not permissible because the structure, proposed to be 33' x 80' would be of Third Class or wooden frame construction which is not allowable in Fire District #1. Also west side of structure would be closer than 5' to the side property line.

Robert L. Gatchell

Chairman

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Y

WARREN McDONALD
INSPECTOR OF BUILDINGS

On reply refer
to File

CITY OF PORTLAND, MAINE

Department of Building Inspection

FU AP 73 Merrill Street-I

October 28, 1948

C. DiBiase Company
551 Congress Street
Mr. James DiBiase
73 Merrill Street

Subject: Application for permit for construction of addition to store attached to dwelling at 73 Merrill Street

Gentlemen:

We are unable to issue the permit for the proposed addition because the store is a non-conforming use in the Apartment House Zone where it is located and as such is not allowed to be increased in volume, as set forth in Section 14-A of the Zoning Ordinance. Also the addition is proposed only about three feet from the side lot line, whereas a distance from that line of at least ten feet is specified by Section 8-C of the Ordinance for any new work in the Apartment House Zone.

Mr. DiBiase has expressed a desire to exercise his appeal rights and therefore an outline of the appeal procedure is being sent to each of you and the case is being certified to the Assistant Corporation Counsel, who acts as clerk for the Board of Appeals. Since the notices of this appeal are required to be sent to all owners of property within five hundred feet of the lot on which the store is located at least ten days in advance of the date of the hearing of the appeal, it is necessary that the appeal be filed before close of business on Friday, October 29 if the appeal is to be considered at the meeting of the Board of Appeals on November 12.

Very truly yours,

(Signed) WARREN McDONALD

AJS/G

Inspector of Buildings

Enclosure: Outline of appeal procedure to each addressee

CC: Edward T. Gignoux
Assistant Corporation Counsel

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Y



(A) APARTMENT HOUSE ZONE
APPLICATION FOR PERMIT

PERMIT ISSUED

Class of Building or Type of Structure Third Class

Portland, Maine, September 22, 1943

To the INSPECTOR OF BUILDINGS, PORTLAND, ME.

The undersigned hereby applies for a permit to erect alter install the following building structure equipment in accordance with the Laws of the State of Maine, the Building Code of the City of Portland, plans and specifications, if any, submitted herewith and the following specifications:

Location 73 Merrill Street Within Fire Limits? yes Dist. No. 3
Owner's or Lessee's name and address Bosina Bibiana, 73 Merrill Street Telephone _____
Contractor's name and address C. DiPace & Co, 22 Monument Square Telephone 2-1023
Architect _____ Plans filed 20 No. of sheets _____
Proposed use of building Dwelling and store No. families 2
Other buildings on same lot _____
Estimated cost \$ 150. Fee \$ 1.00

Description of Present Building to be Altered

Material frame No. stories 2 1/2 Heat _____ Style of roof _____ Roofing _____
Last use Store and dwelling No. families 2

General Description of New Work

To construct new roof, framing and all, over the existing roof and the original one story store and the temporary roof over narrow addition constructed under permit 43/699. This framing is to consist of 2x4 roof joists running parallel to Merrill Street not more than 18" O.C. on span of about 13', these roof joists to get a bearing on a nailing strip against the adjoining dwelling, the ~~existing~~ boarding having been removed and no less than 2x4 nailing strip to be used and the joists to get a bearing over the plate of the outside wall opposite the dwelling. Joists to be bridged with not less than 1x3 cross-bridging. Along the southerly edge of new roof a gutter is to be provided and one or more conductors to take care of the roof drainage and to be connected to the sewer or the roof water otherwise disposed of so that water from the new roof will not run upon the adjoining property or upon the public sidewalk or so as to do damage to this or any other building.

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor.

Details of New Work

Is any plumbing work involved in this work? _____
Is any electrical work involved in this work? _____ Height average grade to top of plate _____
Size, front _____ depth _____ No. stories _____ Height average grade to highest point of roof _____
To be erected on solid or filled land? _____ earth or rock? _____
Material of foundation _____ Thickness, top _____ bottom _____ cellar _____
Material of underpinning _____ Height _____ Thickness _____
Kind of roof _____ Rise per foot _____ Roof covering asphalt roofing paper and shingles
No. of chimneys _____ Material of chimneys _____ of lining _____
Kind of heat _____ Type of fuel _____ Is gas fitting involved? _____
Framing lumber—Kind _____ Dressed or full size? _____
Corner posts _____ Sills _____ Girt or ledger board? _____ Size _____
Material columns under girders _____ Size _____ Max. on centers _____
Studs (outside walls and carrying partitions) 2x4-16" O. C. Girders 6x8 or larger. Bridging in every floor and flat roof span over 8 feet. Sills and corner posts all one piece in cross section.
Joists and rafters: 1st floor _____, 2nd _____, 3rd _____, roof _____
On centers: 1st floor _____, 2nd _____, 3rd _____, roof _____
Maximum span: 1st floor _____, 2nd _____, 3rd _____, roof _____

If one story building with masonry walls, thickness of walls? _____ height? _____

If a Garage

No. cars now accommodated on same lot _____ to be accommodated _____
Total number commercial cars to be accommodated _____
Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? _____

Miscellaneous

Will above work require removal or disturbing of any shade tree on a public street? no
Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto are observed? _____
Signature of owner C. DiPace

INSPECTION COPY

CERTIFICATE OF OCCUPANCY
REQUIREMENT IS WAIVED

39-543-311

$$43/95.7$$

73 Merrill St.

Rosina Du Brasse

9/22/43

1

100

▲

6/7/45

Novel

•

1000



Original Permit No. 42692

Amendment No. 1
AUG 18 1943

AMENDMENT TO APPLICATION FOR PERMIT

Portland, Maine, August 11, 1943

To the INSPECTOR OF BUILDINGS, PORTLAND, ME.

The undersigned hereby applies for an amendment to Permit No. 42692 pertaining to the building or structure comprised in the original application in accordance with the Laws of the State of Maine, the Building Code of the City of Portland, plans and specifications, if any, submitted herewith, and the following specifications:

Location 72 Merrill Street Within Fire Limits? yes Dist. No. 3
Owner's or Lessee's name and address Robert DiBiase, 72 Merrill Street
Contractor's name and address C. DiBiase & Co., 22 Monument Square 2-1933
Plans filed as part of this Amendment no No. of Sheets 2-1933
Is any plumbing work involved in this work? no Is any electrical work involved in this work? no
Increased cost of work no Additional fee 25
Framing Lumber: Kind? no Dressed or Full Size? no

Description of Proposed Work

This amendment is filed to correct the estimated cost of the job, reducing it from the original shown to \$ 190.

Approved:

Chief of Fire Department.

Commissioner of Public Works

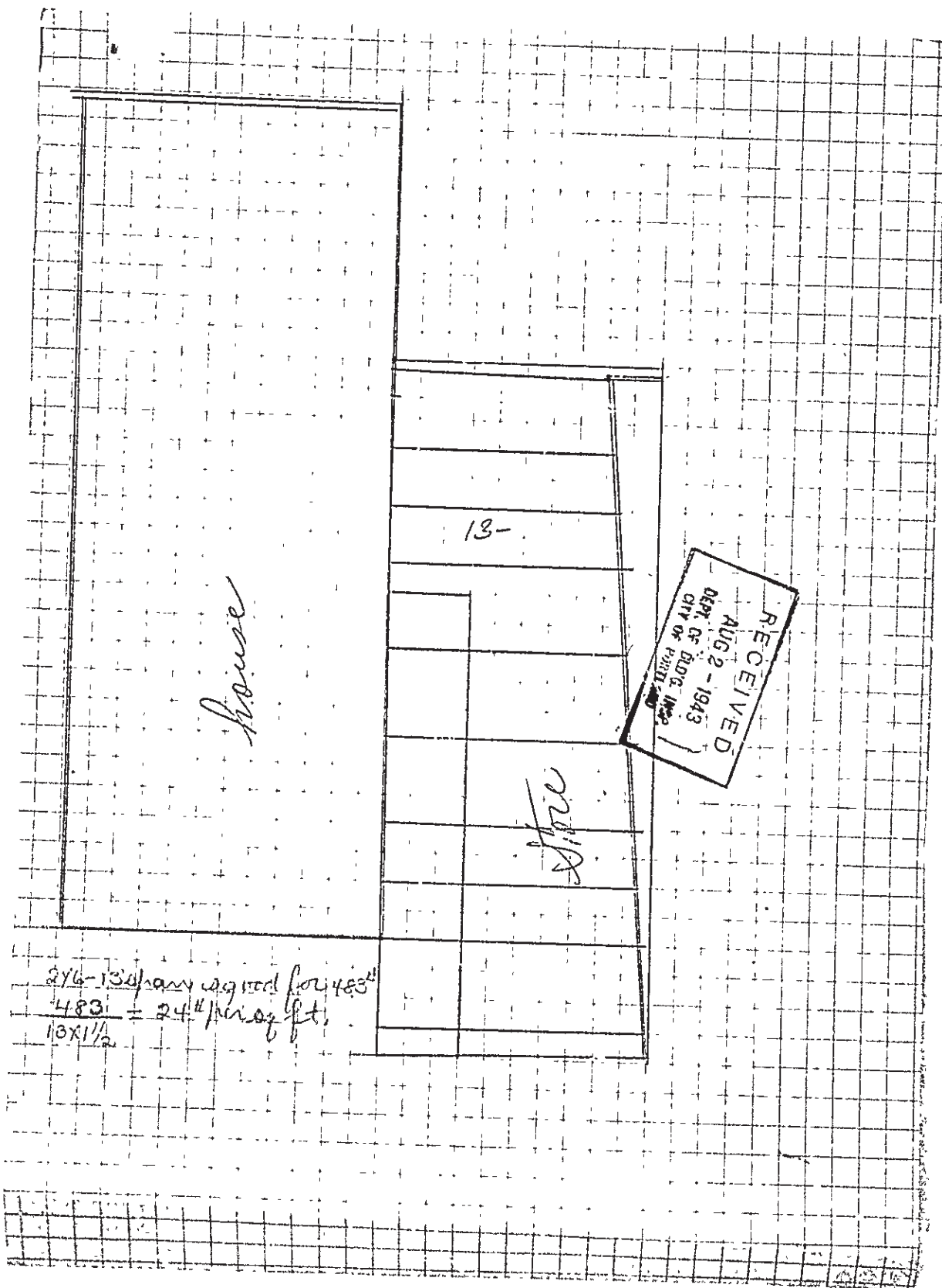
INSPECTION COPY

Robert DiBiase

Signature of Owner

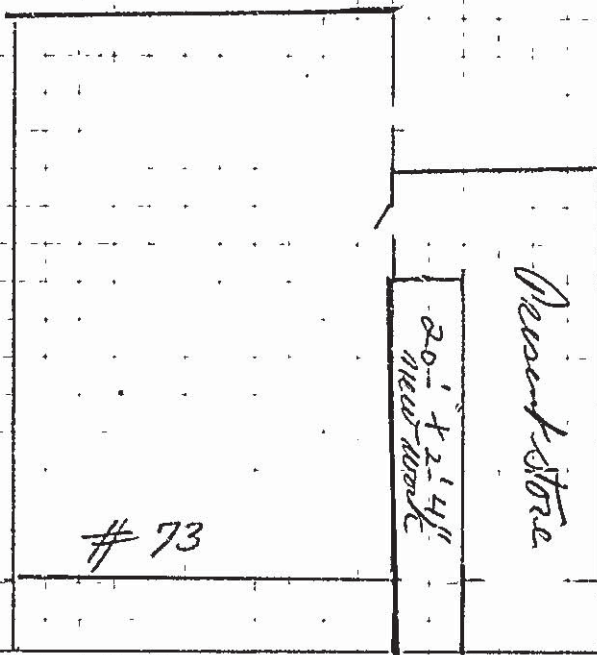
Approved: 8/13/43 - WMD

Inspector of Buildings



2x6-130 have agreed for 483"
 $\frac{483}{13 \times 1\frac{1}{2}} = 24\frac{1}{2}$ per sq ft.

RECEIVED
JUN 14 1943
DEPT. OF GEOL. & MIN.
CITY OF PORTLAND



Merrill St.



APPLICATION FOR PERMIT

Class of Building or Type of Structure Third Class

PERMIT ISSUED
Permit No. 7113

Portland, Maine, June 14, 1943 JUL 20 1943

To the INSPECTOR OF BUILDINGS, PORTLAND, ME.

The undersigned hereby applies for a permit to erect-alter-install the following building structure-equipment in accordance with the Laws of the State of Maine, the Building Code of the City of Portland, plans and specifications, if any, submitted herewith and the following specifications:

Location 73 Merrill Street Within Fire Limits? yes Dist. No. 3
Owner's or Lessee's name and address Rosina DiBiase, 73 Merrill Street Telephone _____
Contractor's name and address C. Tibbels & Co., 22 Monument Sq. Telephone 3-1023
Architect _____ Plans filed yes No. of sheets 1
Proposed use of building dwelling house with store attached No. families 2
Other buildings on same lot _____
Estimated cost \$ 200 Fee \$ 1.00

Description of Present Building to be Altered

Material wood No. stories _____ Heat _____ Style of roof _____ Roofing _____
Last use dwelling house - store No. families _____

General Description of New Work

To build one story frame addition 28' x 20' to fill in space between house and dwelling-rafters now run lengthwise (front to rear)

*not pitch roof toward street
what foundation?*

$15 \times 80 = 1200$
 $1200 \times 10 \times 1.5 = 18000$
 $\frac{18000}{11000} = 16.3 \text{ sq. ft.}$
 $5 \text{ of } 2 \times 8 \text{ ds} = 15.2$
not more than 16.0 c.

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor.

Details of New Work

Is any plumbing work involved in this work? _____
Is any electrical work involved in this work? _____ Height average grade to top of plate _____
Size, front _____ Depth _____ No. stories _____ Height average grade to highest point of roof _____
To be erected on solid or filled land? _____ earth or rock? _____
Material of foundation _____ Thickness, top _____ bottom _____ cellar _____
Material of underpinning _____ Height _____ Thickness _____
Kind of roof flat Rise per foot 1/4" Roof covering Asphalt roofing Glass C. Ind. Lth.
No. of chimneys _____ Material of chimneys _____ of lining _____
Kind of heat _____ Type of fuel _____ Is gas fitting involved? _____
Framing lumber—Kind spruce or hemlock Dressed or full size? dressed
Corner posts _____ Sills 4x6 Girt or ledger board? _____ Size _____
Material columns under girders _____ Size _____ Max. on centers _____
Studs (outside walls and carrying partitions) 2x4-16" O. C. Girders 6x8 or larger. Bridging in every floor and flat roof span over 8 feet. Sills and corner posts all one piece in cross section.

Joists and rafters: 1st floor 2x8, 2nd _____, 3rd _____, roof 2x8
On centers: 1st floor 18", 2nd _____, 3rd _____, roof 18"
Maximum span: 1st floor 10', 2nd _____, 3rd _____, roof 10'

If one story building with masonry walls, thickness of walls? _____ height? _____

If a Garage

No. cars now accommodated on same lot _____, to be accommodated _____
Total number commercial cars to be accommodated _____
Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? _____

Miscellaneous

Will above work require removal or disturbing of any shade tree on a public street? no
Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto are observed? yes

INSPECTION COPY

Signature of owner Rosina DiBiase

53492

3/6/93

73 Merrill St.

Roma Di Biase

Date of permit: 4/20/43

Notif. closing-in

Inspn. closing-in

Final Notif.

Final Inspn. 11/12/48

Cert. of Occupancy issued

NOTES

7/28/43 - No work started

Q.A.

8/2/43 - Same - Q.A.

8/23/43 - Work has been done

No. piering etc. under done

Crucial addition Center

Don't include addition is

built in 1st floor of 2nd

floor in Center of main

Wall. Great room removed



City of Portland, Maine

Sustained 7/19/43
43/51

Chairman Libby yes

Mr. Berry yes

Mr. Harrison yes

Dr. Leighton absent

Mr. Harry Libby yes

Appeal to the Municipal Officers to Change the Decision

Inspector of Buildings Relating to the Property Owned

by Rosina DiBiase at 75 Merrill Street

June 30, 1943

To the Municipal Officers:

Your appellant, Rosina DiBiase

who is the owner of property at 75 Merrill Street

respectfully petitions the Municipal Officers of the City of Portland to change the decision of the Inspector of Buildings relating to this property, as provided by Section 13, Paragraph c, of the Zoning Ordinance, on the ground that the enforcement of the ordinance in this case involves unnecessary hardship and because relief may be granted without substantially derogating from the intent and purpose of the Zoning Ordinance.

The decision of the Inspector of Buildings denies a permit to cover construction of a one story addition to the existing retail store attached to the dwelling house on the above property the addition to be about 28 inches wide by 20 feet deep and to fill in an open space between dwelling and store because the addition would increase the volume of the store which is an existing non-conforming use and the new work would extend closer than five feet to the street line of Merrill Street, contrary to the provisions of the ordinance in the Apartment House Zone where the property is located.

The reasons for the appeal are as follows: The main part of the present store is only ten feet wide and the additional 28 inches of width is very necessary to the continued operation of the store. The present store front is at the street line of Merrill Street, and since the new work closer than five feet to the street line would be on the side toward the appellant's dwelling, it is the belief that this encroachment in the front yard would not be obnoxious or detrimental to anyone.

(Signed) Rosina DiBiase

3427P

appeal sustained
7/19/43

43/51

098

8-11-43

, that the appeal under the Zoning Ordinance of Rosina DiBlase at 73 Merrill Street, relating to the construction of a proposed addition to the retail store there constituting an increase in volume of a non-conforming use and with the new work of the addition closer to the street line of Merrill Street than ordinarily permitted in the Apartment House Zone where the property is located, be sustained and that a building permit be granted said appellant subject to full compliance with all terms of the Building Code;

BECAUSE enforcement of the ordinance in this specific case involves unnecessary hardship by needlessly preventing a small enlargement of the store; and desirable relief may be granted without substantially derogating from the intent and purpose of the ordinance in that the proposed addition could hardly prove obnoxious or detrimental to the neighborhood and the location of it would not interfere with light and air or increase the fire hazard to the neighboring property.