

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



MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

PETER P. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTORT  
Dewey Martin

243 Spring Street

All persons interested either for or against this Spare & Bulk Variance will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday evening, February 15, 1990 at 7:00 p.m. This notice of required public hearing has been sent to the owners of property directly abutting and directly across a street or alley from the property as required by the Ordinance.

Mr. H. Roger Flannery, Sr. owner of the property at 243 Spring Street which is located in the R-6 Residence Zone, under the provisions of Section 14-473(c)1 of the Zoning Ordinance of the City of Portland, Maine hereby respectfully petitions the Board of Appeals to permit him to convert the existing bar building to a fifth apartment with an office. There are presently two buildings occupying the same lot of land consisting of 4197 square feet, and Section 14-139(2) of the Zoning Ordinance requires 1,000 square feet of land area per apartment.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-473(c)1 of the Zoning Ordinance have been met.

John C. Knox  
Secretary

el  
1/25/90

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



243 Spring Street

MERRILL S. SELTZER  
Chairman

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Secretary

PETER F. MORELLI  
THOMAS F. JEVELL  
DAVID L. SILVERHAIL  
MICHAEL E. WESTORT

Dewey Martin Jr.

February 16, 1990

Mr. H. Roger Flannery, Sr.  
P. O. Box 1509  
Scarborough, Maine 04074

Dear Mr. Flannery:

Mr. Flannery called by telephone to request that the application for a variance be withdrawn. We are advised that you wish to keep the use as it exists and to rent it as a tavern.

As we told your son, in order to withdraw your variance request, we shall need a letter over your signature, which requests that this variance appeal be withdrawn. This is needed for our records.

The appeal fee is not refundable. You may wish to proceed with this variance at a later date. Please furnish the letter requesting its withdrawal as soon as possible. The February 15th meeting was cancelled.

Please let us know if we may be of assistance in the future.

Sincerely,

A handwritten signature in cursive script that reads "Warren J. Turner".

Warren J. Turner  
Administrative Assistant

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
Joseph E. Gray, Jr., Director, Planning & Urban Development  
P. Samuel Hoffses, Chief, Inspection Services  
Marland Wing, Code Enforcement Officer  
William D. Giroux, Zoning Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel

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



243 Spring Street

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Chairman

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PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTGORT  
Dewey Martin

January 22, 1990

Mr. H. Roger Flannery, Sr.  
P. O. Box 1509  
Scarborough, Maine 04074

Dear Mr. Flannery:

This will acknowledge receipt of your application for a variance to permit an office and more than four apartments on a lot containing 4,197 square feet at 243 Spring Street in the R-6 Residence Zone. This request would enable you as applicant to convert the existing bar building to a fifth apartment with an office, for property management purposes.

There are presently two buildings occupying the same lot of land and Section 14-1a(2) of the Zoning Ordinance requires 1,000 square feet of land area per apartment. Formerly contained in a B-1 Business Zone, the business zone was removed when the Peche Schol site was being planned, and the bar building then became nonconforming in the R-6 Residence Zone.

This request for a space and bulk variance will be scheduled for review by the Board of Appeals on Thursday evening, February 15th, 1990, at 7 P.M. in Room 209, City Hall, Portland, Maine. A copy of the agenda for that meeting will be sent to you as soon as copies become available.

Sincerely,

*Warren J. Turner*

Warren J. Turner  
Administrative Assistant

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
Joseph E. Gray, Jr., Director, Planning & Urban Development  
P. Samuel Hoffses, Chief, Inspection Services  
Marland Wing, Code Enforcement Officer  
William D. Giroux, Zoning Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel  
Timothy A. Flannery, P. O. Box 1509, Scarborough, Maine 04074.



FINDINGS OF FACT  
ALL APPEALS

TYPE OF APPEAL Space and Bulk Variance

1. Name of Applicant Roger Flannery, Jr
2. Address of Applicant P.O. Box 1509, Scarborough
3. Right of applicant to appeal.  
Owner Roger & Dolores A. Flannery  
Option to Purchase \_\_\_\_\_
4. Location of property under appeal 243 Spring St.
5. Zone in which the property is located R-6 Residence
6. Present use of property Former Spring St. Tavern of 4 apts
7. Proposed use if the appeal is granted.  
Small Office and 5 apts
8. Names and addresses of those appearing in support of the application:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Names and addresses of those appearing in opposition to the application:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Listing of the documentary evidence presented to the Board (e.g., plans, photos, maps, etc.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VARIANCES

A variance may be granted if the Board finds that it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the Ordinance would result in "undue hardship". The following questions must all be answered, with supporting findings of fact, in order to grant the appeal.

1. Can the land yield a reasonable return (not the highest return) without the granting of a variance?  
Yes \_\_\_\_\_ (deny the appeal)  
No \_\_\_\_\_

Reasons (including evidence) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Are there factors which are unique to this property, and not to the general conditions of the neighborhood, which create a need for a variance?  
Yes \_\_\_\_\_  
No \_\_\_\_\_ (deny the appeal)

Reasons (including evidence) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Will the granting of the variance alter the essential character of the locality?  
Yes \_\_\_\_\_ (deny the appeal)  
No \_\_\_\_\_

Reasons (including evidence) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Is the hardship a result of action taken by the applicant or a prior owner (self-created hardship)?  
Yes \_\_\_\_\_ (deny the appeal)  
No \_\_\_\_\_

Reasons (including evidence) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the appeal is granted, does the Board wish to impose conditions which will further the intent and purpose of this Ordinance?

Yes \_\_\_\_\_

No \_\_\_\_\_

Specific Conditions \_\_\_\_\_

Reasons \_\_\_\_\_

Date of Public Hearing \_\_\_\_\_

Motion \_\_\_\_\_

(including conditions and findings of fact) \_\_\_\_\_

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Votes in Favor

Votes Opposed

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Applicant: *+ Dolores A. Roger Flannery, Dr. Owner*  
 Address: *243 Spring St.* *388 US Route 1*  
 Assessors No.: *56-G-38* *(1989) Norman S. Reef, Tr*  
 Date: *Feb 15, 1990*

CHECK-LIST AGAINST ZONING ORDINANCE

- Date -
- Zone Location - *R-6 Zone*
- Interior or corner lot -
- Use - *Conversion of former Tavern to Office and Apts.*
- Sewage Disposal - *City*
- Rear Yards -
- Side Yards -
- Front Yards -
- Projections -
- Height - *1989. resmt*
- Lot Area - *4197 sq. ft.* *\$ 16,740 ±*
- Building Area - *45,610 B*
- Area per Family - *1,000 sq. ft.* *\$ 62,950 T*
- Width of Lot -
- Lot Frontage -
- Off-street Parking -
- Loading Bays -
- Site Plan -
- Shoreland Zoning -
- Flood Plains -

1/24

N.B. The proposed apartment which will only contain 498 sq. ft. is not subject to the 600 sq. ft. requirement of § 14-126 (1)(b), since the use was not in residential use on 12/2/87.

The office use would be permitted as conditional use (real estate agent), pursuant to § 14-137 (3)(1).

The proposed office (which Wason asserts is for the owner's real estate business) would be permitted as a change in a non-conforming use.



§ 14-384, i.e. as a change from  
the residence zone (R-6) in which the  
property is located to a use permitted  
in the R-1 Zone ( § 14-384(3) and § 14-  
162 (2) (b).

- From Charles A. Lane

Permit # \_\_\_\_\_ City of Portland BUILDING PERMIT APPLICATION Fee \$50.00 Zone \_\_\_\_\_ Map # \_\_\_\_\_ Lot# \_\_\_\_\_  
Please fill out any part which applies to job. Proper plans must accompany form.

Owner: H. Roger Flannery, Sr. Phone # 883-4422  
Address: 383 U.S.Rt. 1 P.O. Box 1509 Scarborough, Me. 04070

LOCATION OF CONSTRUCTION 743 Spring St. Portland

Contractor: \_\_\_\_\_ Sub: \_\_\_\_\_

Address: \_\_\_\_\_ Phone # \_\_\_\_\_

Est. Construction Cost: \_\_\_\_\_ Proposed Use: Apt. & Office

\_\_\_\_\_ Past Use: Bar

# of Existing Res. Units \_\_\_\_\_ # of New Res. Units \_\_\_\_\_

Building Dimensions L \_\_\_\_\_ W \_\_\_\_\_ Total Sq. Ft. \_\_\_\_\_

# Stories \_\_\_\_\_ # Bedrooms \_\_\_\_\_ Lot Size \_\_\_\_\_

Is Proposed Use: Seasonal \_\_\_\_\_ Condominium \_\_\_\_\_ Conversion \_\_\_\_\_

Explain Conversion Space & Bulk to convert from Bar to Apt. & Office

For Official Use Only	
Date: <u>January 22, 1990</u>	Subdivision: _____
Inside Fire Limits: _____	Name: _____
Bldg Code: _____	Lot: _____
Time Limit: _____	Ownership: _____ Public _____ Private _____
Estimated Cost: _____	
Zoning: <u>R-6</u>	
Street Frontage Provided: _____	
Provided Setbacks: Front _____ Back _____ Side _____ Side _____	
Review Required: _____	
Zoning Board Approval: Yes _____ No _____ Date: _____	
Planning Board Approval: Yes _____ No _____ Date: _____	
Conditional Use: _____ Variance _____ Site Plan _____ Subdivision _____	
Shoreland Zoning Yes _____ No _____ Floodplain Yes _____ No _____	
Special Exception _____	
Other (Explain) _____	

Foundations:

1. Type of Soil: \_\_\_\_\_
2. Set Back Front \_\_\_\_\_ Rear \_\_\_\_\_ Side(s) \_\_\_\_\_
3. Footings Size: \_\_\_\_\_
4. Foundation Size: \_\_\_\_\_
5. Other \_\_\_\_\_

Floor:

1. Sills Size: \_\_\_\_\_ Sills must be anchored.
2. Girder Size: \_\_\_\_\_
3. Lally Column Spacing: \_\_\_\_\_ Size: \_\_\_\_\_
4. Joists Size: \_\_\_\_\_ Spacing 16" O.C.
5. Bridging Type: \_\_\_\_\_ Size: \_\_\_\_\_
6. Floor Sheathing Type: \_\_\_\_\_ Size: \_\_\_\_\_
7. Other Material \_\_\_\_\_

Exterior Walls:

1. Stud Size \_\_\_\_\_ Spacing \_\_\_\_\_
2. No. windows \_\_\_\_\_
3. No. Doors \_\_\_\_\_
4. Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_
5. Bracing: Yes \_\_\_\_\_ No \_\_\_\_\_
6. Corner Posts Size \_\_\_\_\_
7. Insulation Type \_\_\_\_\_ Size \_\_\_\_\_
8. Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_
9. Siding Type \_\_\_\_\_ Weather Exposure \_\_\_\_\_
10. Masonry Materials \_\_\_\_\_
11. Metal Materials \_\_\_\_\_

Interior Walls:

1. Studding Size \_\_\_\_\_ Spacing \_\_\_\_\_
2. Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_
3. Wall Covering Type \_\_\_\_\_
4. Fire Wall if required \_\_\_\_\_
5. Other Materials \_\_\_\_\_

Ceilings:

1. Ceiling Joists Size: \_\_\_\_\_
2. Ceiling Strapping Size \_\_\_\_\_ Spacing \_\_\_\_\_
3. Type Ceilings: \_\_\_\_\_
4. Insulation Type \_\_\_\_\_ Size \_\_\_\_\_
5. Ceiling Height: \_\_\_\_\_

Roof:

1. Truss or Rafter Size \_\_\_\_\_ Span \_\_\_\_\_
2. Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_
3. Roof Covering Type \_\_\_\_\_

Chimneys:

Type: \_\_\_\_\_ Number of Fire Places \_\_\_\_\_

Heating:

Type of Heat: \_\_\_\_\_

Electrical:

Service Entrance Size: \_\_\_\_\_ Smoke Detector Required Yes \_\_\_\_\_ No \_\_\_\_\_

Plumbing:

1. Approval of soil test if required Yes \_\_\_\_\_ No \_\_\_\_\_
2. No. of Tubs or Showers \_\_\_\_\_
3. No. of Flushes \_\_\_\_\_
4. No. of Lavatories \_\_\_\_\_
5. No. of Other Fixtures \_\_\_\_\_

Swimming Pools:

1. Type: \_\_\_\_\_
2. Pool Size: \_\_\_\_\_ x \_\_\_\_\_ Square Footage \_\_\_\_\_
3. Must conform to National Electrical Code and State Law.

Permit Received By Latini  
Signature of Applicant Timothy A. Flannery Date 1/22/90  
Signature of CEO \_\_\_\_\_ Date \_\_\_\_\_  
Inspection Dates \_\_\_\_\_

Withdrawn 2/14/90 letter 2-1/90

**Moosehead Motel and Cabins**

~~383 US Route 1~~ P.O. Box 1509  
Scarborough, Maine 04074  
(207) 883-4422

2-21-1990

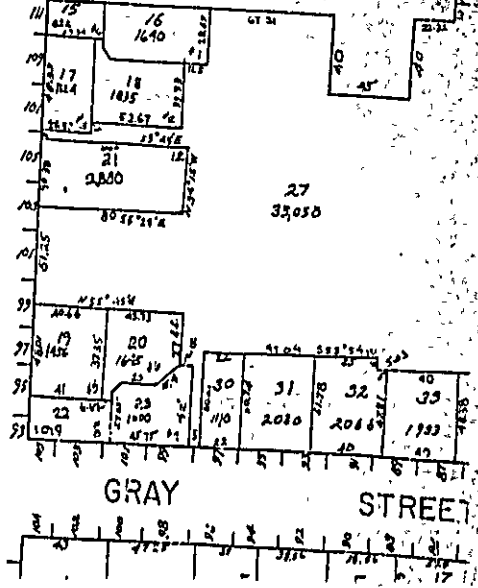
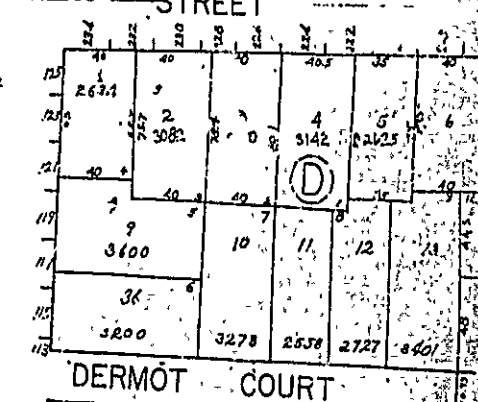
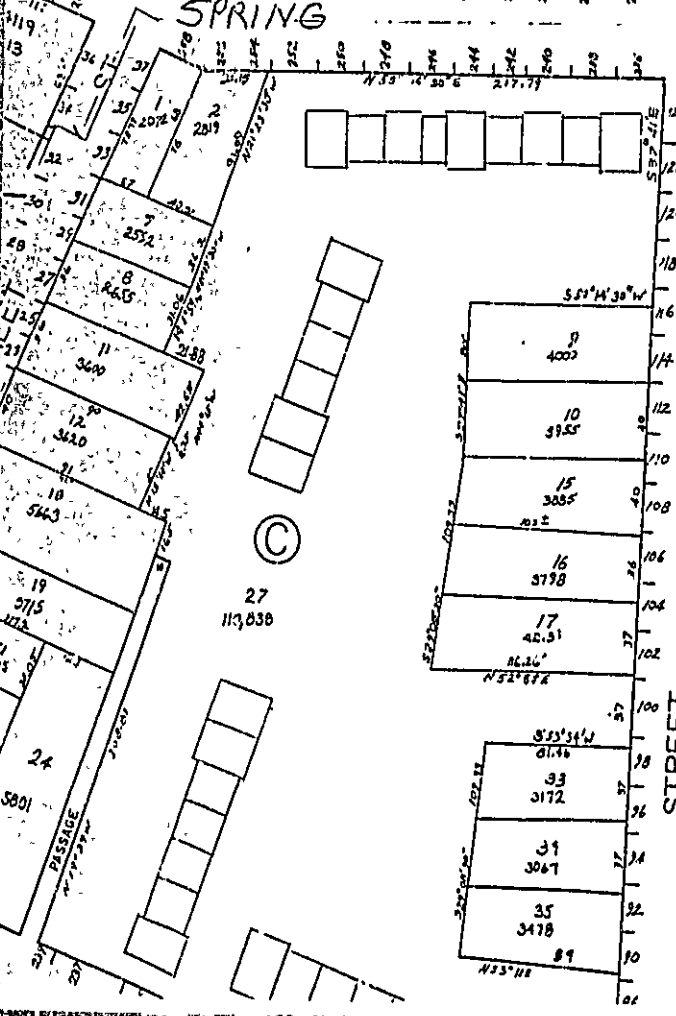
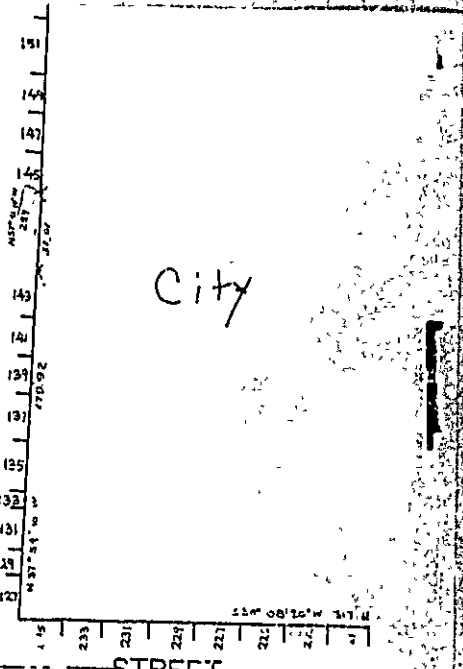
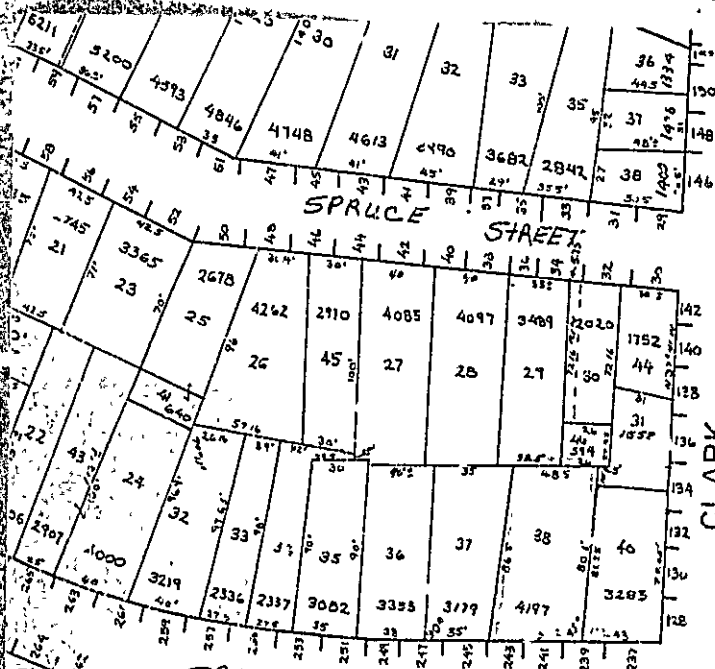
Mr. Warren T. Turner  
Administrative Assistant

Dear Mr. Turner:

I wish to have the <sup>petition</sup> for a  
variance appeal, at 743 Spring Street,  
be withdrawn at this time.

Thank you,

H. Roger Flannery, Sr.



CLARK STREET  
 SPRING STREET  
 DERMOT COURT  
 GRAY STREET



2/27/90

Board of Appeals

I wish to withdraw my appeal regarding  
243 Spring St. Tam.

Sincerely

Timothy A. Conway



CITY OF PORTLAND

VARIANCE APPEAL

APPLICATION

Applicant's name and address: H. Roger Flannery  
383 US RT 7 Scarborough, Me

Applicant's interest in property (e.g., owner, purchaser, etc.):  
OWNER

Owner's name and address (if different): \_\_\_\_\_

Address of property (or Assessor's chart, block and lot number):  
243 Spring St. Portland

Zone: R-6 Present use: BAR-TAVERN

Variance from: Section 14-137(2) 1,000 sqft. of land area  
per apartment

NOTE: If site plan approval is required, attach preliminary or final site plan.

*The subject lot contains 4197 sqft. and four apartments.*

The undersigned hereby makes application for a variance as above-described, and certifies that all information herein supplied by him is true and correct to the best of his knowledge and belief.

Dated: 1-8, 1990

H. Roger Flannery  
Signature of Applicant

**RECEIVED**

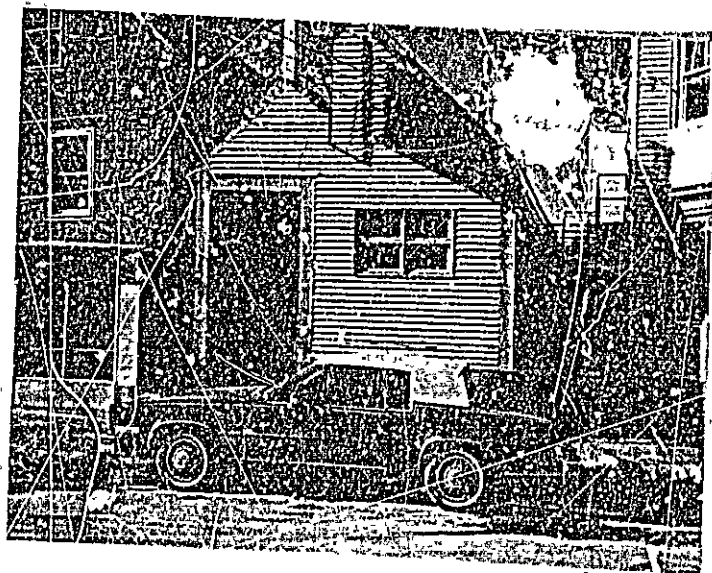
JAN 22 1990

DEPT OF BUILDING INSPECTIONS  
CITY OF PORTLAND

UNDUH HARDHIP REQUIRED; DEFINED.

- A. That the land in question cannot yield a reasonable return unless a variance is granted;
- b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- C. That the granting of a variance will not alter the essential character of the locality; and
- D. That the hardship is not the result of action taken by the applicant or a prior owner.

PROPOSAL  
243 Spring St.  
Portland, Maine



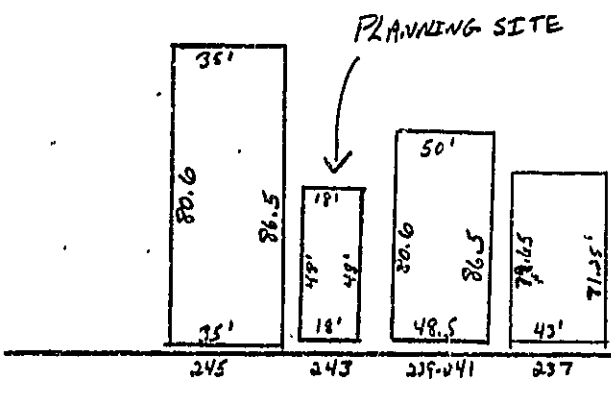


Jan 20, 1990

## Board of Appeals

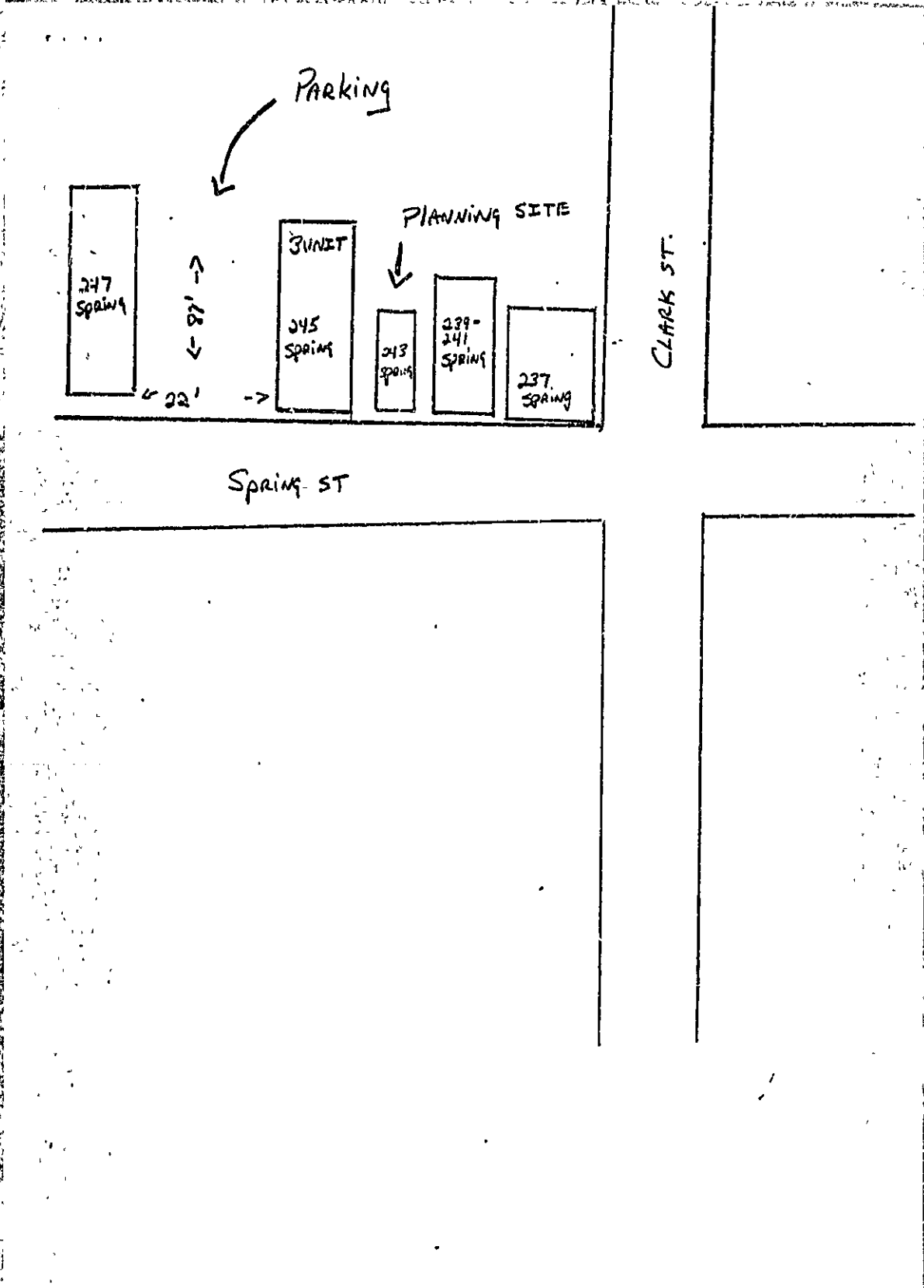
Existing on 243 Spring St. Portland, Maine is a single unit building. The use of this building has always been a liquor bar. Renting this building as a bar would not bring in enough money to cover expenses, nor do I want the problems that are associated with a bar. Presently the bar is empty, so now is the time to do something with this building. So I propose to build one Apt. and one office. The office would be for my own personal use. With your favorable consideration on this, I think this project would be favorable to the surrounding neighborhood and schools.

Sincerely  
H. Peter Perry

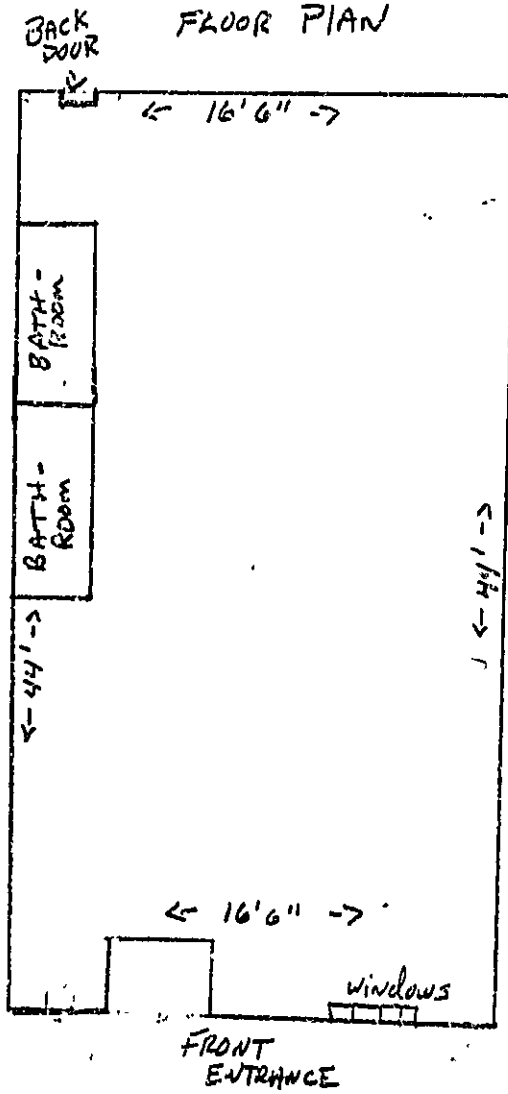


SPRING ST.

CLARK ST.

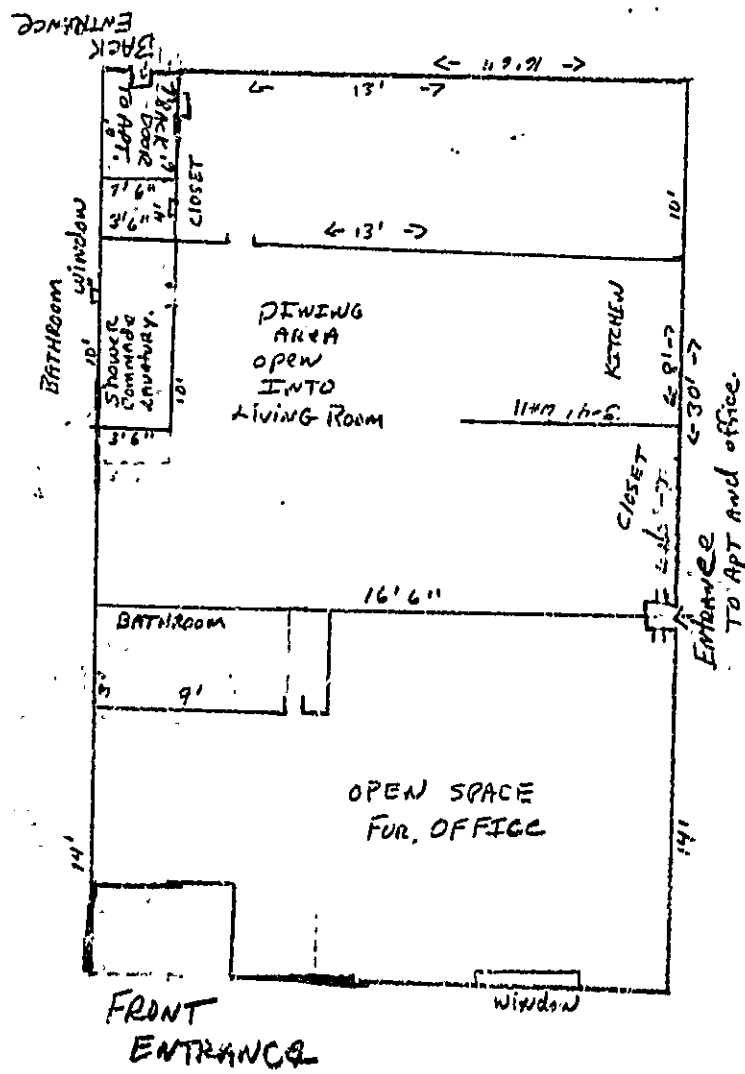


EXISTING  
FLOOR PLAN





# Proposed Floor Plan



56-H-38

243 Spring Street  
Flanberry

56-H-28 Edwin D. Jr. + Marjorie P. Movers  
38 Spruce St 04102

H-29 Carroll L + Ellen S Fernald  
36 Spruce St 04102

H-30 City of Portland

H-31 Lucy Harrington Aquila  
Ann Bodine Dilworth  
136 Clark St 04102

H-37 Harry Baker  
32 Eya Rd 04103

H-40 Caesar + Mary T. Capu  
667 Ocean Ave 04103

H-46 Robert A Jensen Jr  
34 Spruce St 04102

57-C-27 Colman - Portland Assoc  
Co Federal Mt. Co, Inc  
720 Statler  
Boston, Mass 02116