

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



55 Baxter Boulevard

MERRILL S. SELTZER
Chairman

JOHN C. KNOX
Secretary

PETER F. MORELLI
THOMAS F. JEWELL
DAVID L. SILVERNAIL
MICHAEL E. WESTORT
CHRISTOPHER DINAN

June 23, 1989

Mr. John Whipple, Architect
44 Oak Street
Portland, Maine 04101

Dear Mr. Whipple:

At the meeting of the Board of Appeals on Thursday evening, June 22, 1989, the Board voted by a unanimous vote of five members present to deny your application for a space and bulk variance on behalf of Peter Garsoe, owner of 55 Baxter Boulevard.

The Board determined that building design is not essential to reasonable return for the building. A copy of the Board's decision is enclosed for your records and those of your client.

Sincerely,

Warren J. Turner
Administrative Assistant

Enclosure: Copy of Board's Decision

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

87148300

CITY OF PORTLAND, MAINE
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CHRISTOPHER DINAN

June 5, 1989

RE: 55 Baxter Blvd.

Mr. Peter Garsoe
c/o John Whipple, Architect
44 Oak Street
Portland, Maine 04101

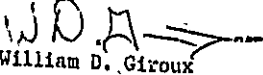
Dear Mr. Whipple:

This is in reference to your application for a space and bulk variance on behalf of Mr. Peter Garsoe as owner of 55 Baxter Boulevard in the B-2 Business Zone. We understand the proposed expansion of the existing building will involve adding a second story to the building. Such an addition will entail a 5 foot variance due to the fact that Section 14-185 (3)c(1) of the City Zoning Ordinance, as amended, requires a 10 foot side yard setback for a two story building.

Your proposed building would have two corners which would require a five foot variance if the building were to be squared off consistent with the other buildings within the B-2 Zons in the same general area.

This request for a variance will be scheduled for consideration by the Board of Appeals on Thursday evening, June 22, 1989, 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 for distribution. At the public hearing, the Board will consider whether the four criteria for "undue hardship" are met, as outlined in the enclosed definition.

Sincerely,


William D. Giroux
Zoning Enforcement Officer

Enclosure: Criteria for defining "Undue Hardship"

/el

cc: Merrill S. Seltzer, Chairman, Board of Appeals
Joseph E. Gray, Jr., Director of Planning & Urban Development
P. Samuel Hoffses, Chief of Inspection Services
Kevin Carroll, Code Enforcement Officer
Warren J. Turner, Administrative Assistant
Charles A. Lane, Associate Corporation Counsel

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55 Baxter Boulevard

All persons interested either for or against this Space & Bulk Variance will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday evening, June 22, 1989 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.

John Whipple, Architect, on behalf of Mr. Peter Garsoe, owner of the property at 55 Baxter Boulevard in the B-2 Business Zone, is seeking a variance for the side yard setback for the building at the above address. They are proposing to add a second story to this building requiring a 5 foot side yard setback for a two story building when 10 feet is required according to Section 14-185(3)(c) of the City Zoning Ordinance, as amended.

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

/e1
6/5/89



CITY OF PORTLAND

VARIANCE APPEAL

APPLICATION

Applicant's name and address: PETER GARSOE
% BENTECH INC. 78 ELM ST. PORTLAND, ME 04101

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

Owner's name and address (if different): SAME AS ABOVE

Address of property (or Assessor's chart, block and lot number):
55 BAXTER BLVD. TAX LOT #: 112-E-20

Zone: B-2 Present use: VACANT (FORMERLY LOPBE & CHURCH, INC.)

Variance from: Section 14- 185 (3) c1, as amended (B-2 Zone)

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

Request for a variance to permit a 5 foot side yard setback for a two story principal building in B-2 Zone.
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: 6/5, 1989

John Whipple
Signature of Applicant

UNDUE HARDSHIP 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.

JOHN WHIPPLE ARCHITECT 44 OAK ST. PORTLAND MAINE 04101 207-778-2686

Zoning Board of Appeals
Zoning Office, Room 315
Portland City Hall
Portland, ME 04101

June 5, 1989

Dear Board Members:

We are submitting the enclosed materials for review for a variance on the set back requirements at 55 Baxter Boulevard. The scope of the project consists of the renovation of and addition to an existing structure. The site has been designated as a 3-2 zone by the City of Portland.

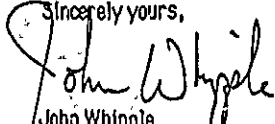
The project will add a second floor to the existing structure (formerly occupied by Lopez & Church, Inc.), as well as extending the building envelope in the southerly and easterly directions 12'-0" and 17'-0", respectively. Due to the location of the existing building and the programmatic and structural considerations, it is necessary that a small portion of the building rest inside the setback zone. As shown in the accompanying site plan, the southwest corner of the building will rest approximately 5'-0" inside the current setback area. Although it sits within the setback area, the corner of the building is consistent with the other buildings which occupy the street edge in regard to its distance from the existing sidewalks and the Hannaford Bros. access road.

The remaining area of the setback is currently a paved driveway with a curb cut near the intersection of Baxter Boulevard and the Preble Street Extension. Our site design calls for removing a substantial portion of the southeast corner of the existing building to provide a new access to the site. This new access will negate the need for the existing curb cut and therefore will act to remove some of the pressure on the adjacent intersection.

We have taken great pains to produce a building that will do justice to this prominent and exposed site. Aesthetically, the building will sit more naturally on the site with its three exposed corners being square than it would if a corner had to be lopped off to meet an invisible setback. It is also important that the building retain three strong corners to reinforce the street corners. Structurally, the building is simpler and more economical with a square corner than it would be with an angled corner. We feel that nothing would be gained by removing that corner since the closest building from the corner is approximately 75'-0" from it, and its presence will not alter the essential character of the locality in any negative manner.

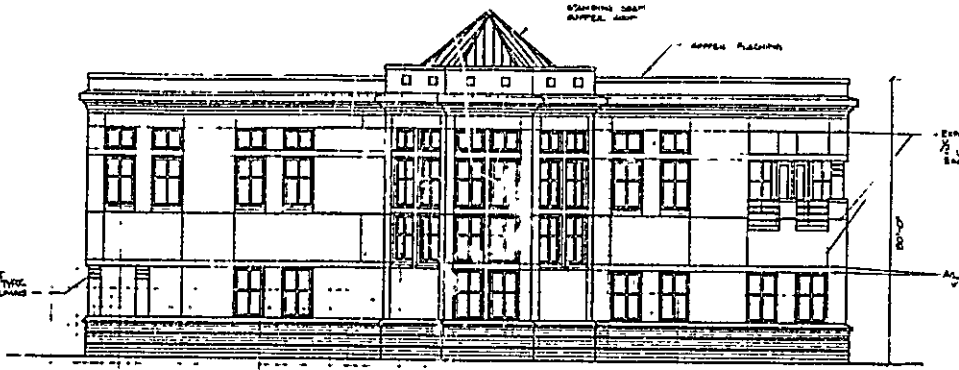
Thank you for your consideration.

Sincerely yours,

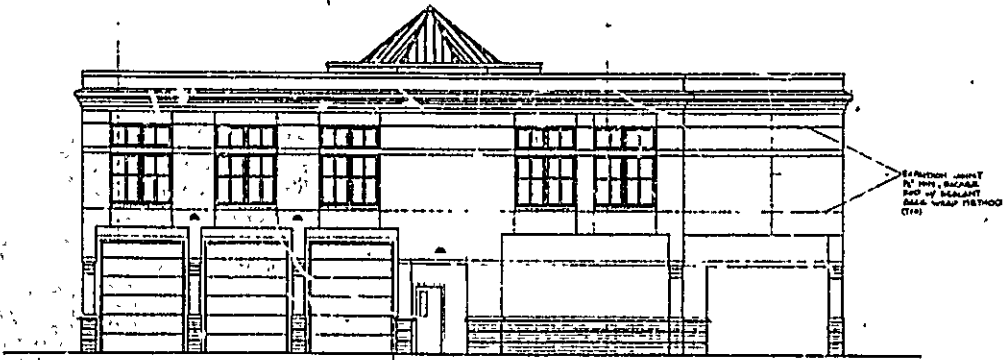


John Whipple

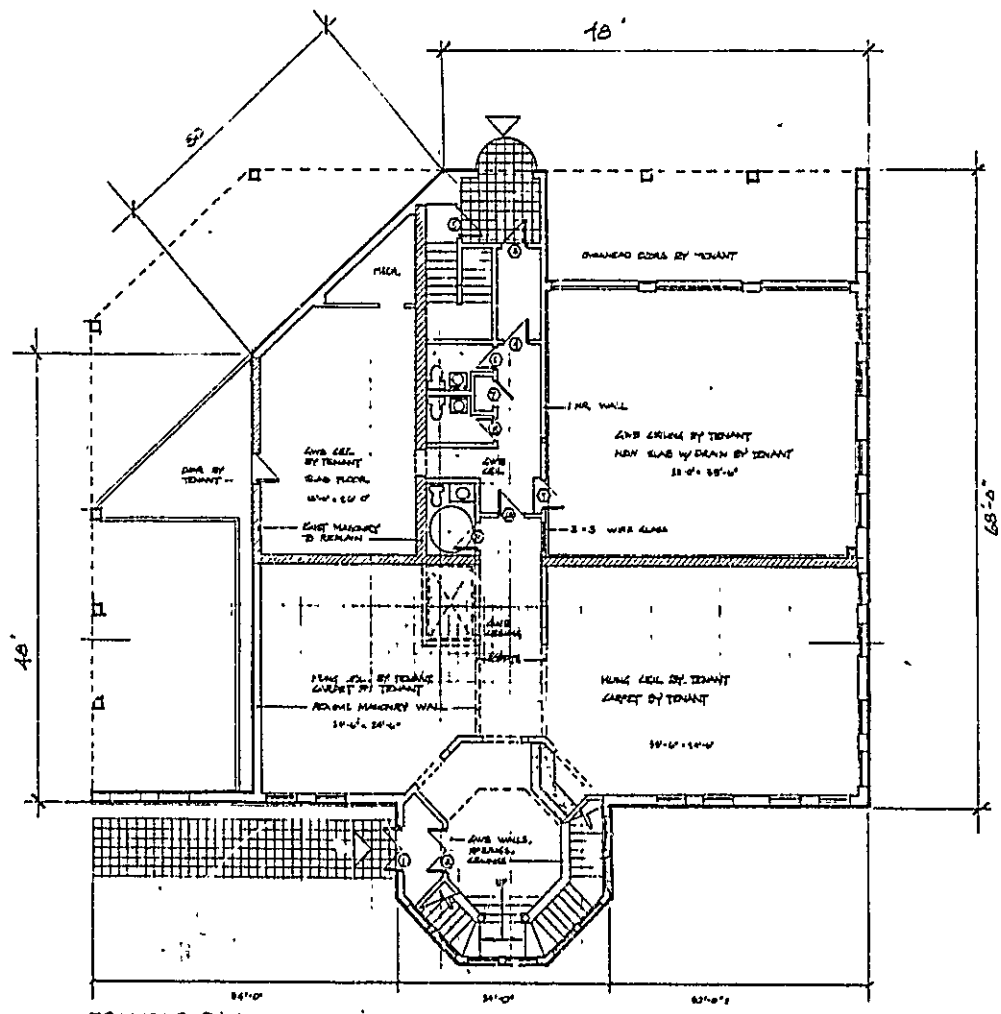
JWW/mjm



NORTH ELEVATION - PRESLE ST EXTN
SCALE 1/8" = 1'-0"

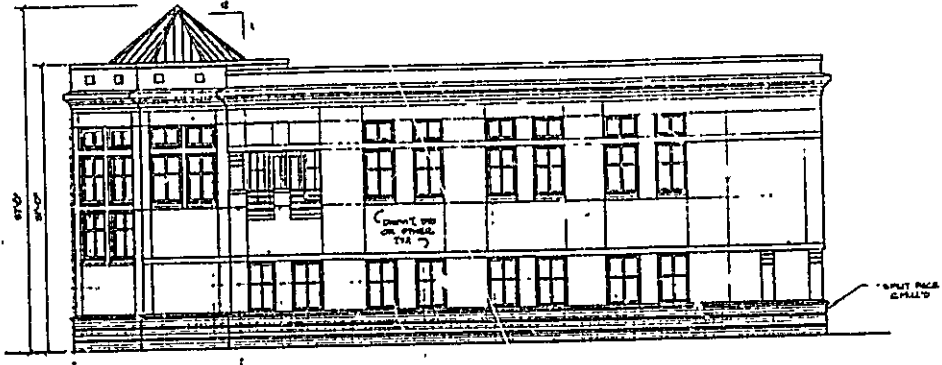


SOUTH ELEVATION
SCALE 1/8" = 1'-0"

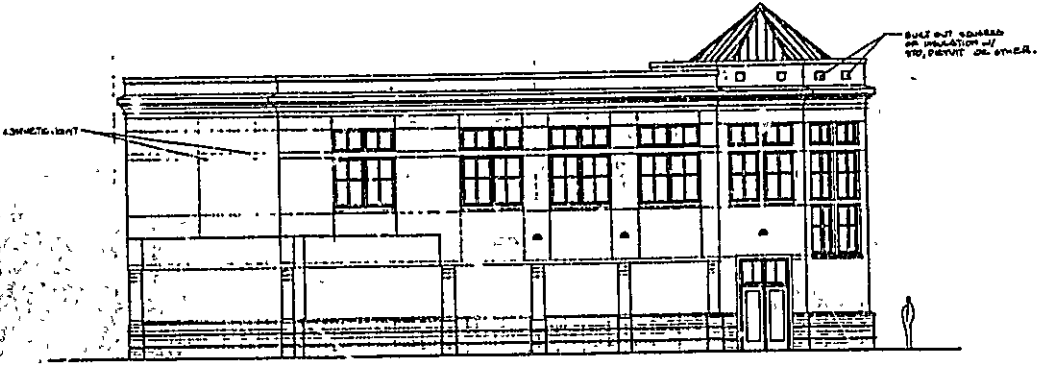


FIRST FLOOR PLAN

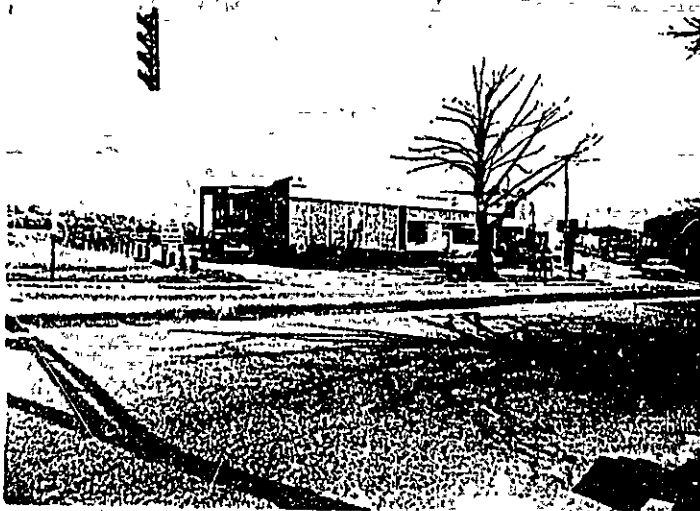
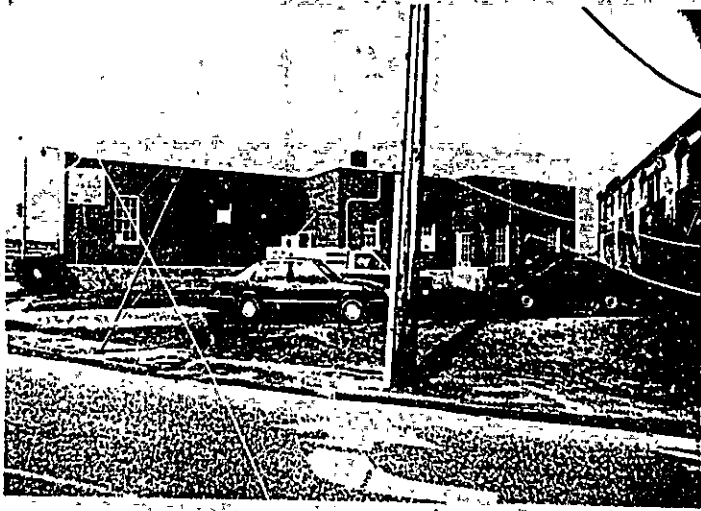
1/2" = 1'

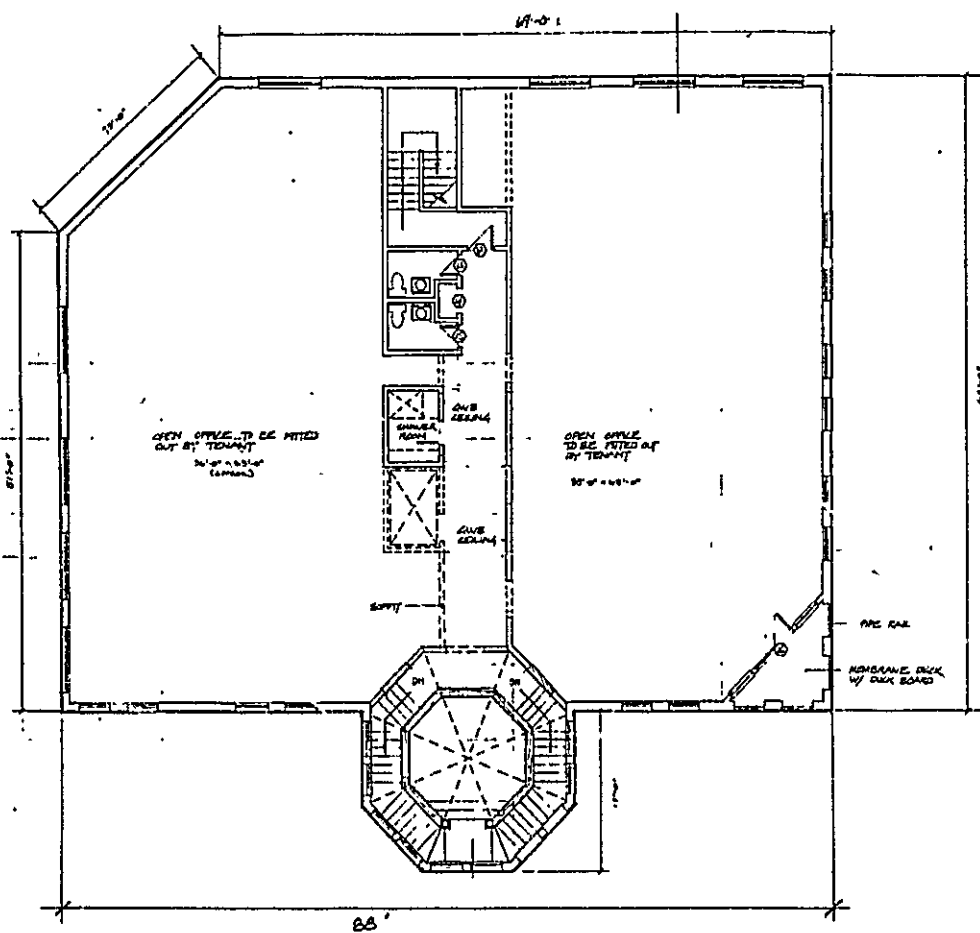


WEST ELEVATION - BAXTER BUILDING
SCALE 1/4" = 1'-0"



EAST ELEVATION -
SCALE 1/4" = 1'-0"





SECOND FLOOR PLAN
 1/12/01

JOHN WHIPPLE ARCHITECT 24 OAK ST. PORTLAND MAINE TEL 207-771-5466

June 22, 1989

Zoning Board of Appeals

Re 55 Baxter Boulevard

Dear Sirs

Our request for a variance in the set-back requirements of the B-2 zone is based on the following arguments:

A. That the land in question cannot yield a reasonable return unless the variance is granted:

The building as it stands is in dilapidated condition. Something has to be done to it just to make it rentable and habitable. There is no logical way to do a piecemeal or cosmetic job on the existing building, and we feel that the only way to treat the property is to "do it right", with a total re-hab of structure and site. The costs involved in a total re-hab necessitate increasing the scale of the rentable property to the 10,000 s.f. shown in our plans. They also put the project at the high end of the rental scale, where we feel that everything must be done perfectly to make the property attractive to rent. A compromise in cutting back just one corner of the building would: a. decrease rentable space; b. add cost in structural complexity; and c. significantly decrease the attractiveness of the project, all of which together would create an undue hardship.

B. The need for a variance is due to the unique circumstances of the property

The property is an unusual shape and it is uniquely visible. The plot plan is triangular, with limited access from only one side and only one option for configuring a building and its accompanying parking. The property is bounded by three heavily traveled roads; it is visible from all the way across the Back Bay, and it is one of the first things anyone will see entering Portland from Baxter Boulevard. There is only one abutting building. One corner of our building has been designed to be parallel to that building. The other three and more visible sides of the building have been designed as traditional 90 degree corners.

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

Granting the variance will in fact preserve the essential character of the locality. Other buildings in the area have predominantly square corners. Site lines from and toward the Hannaford parking area will be unchanged since the setback proposed is the same as that of the two existing buildings on Hannaford Drive.

2

D. The hardship is not a result of actions taken by this applicant or a prior owner.

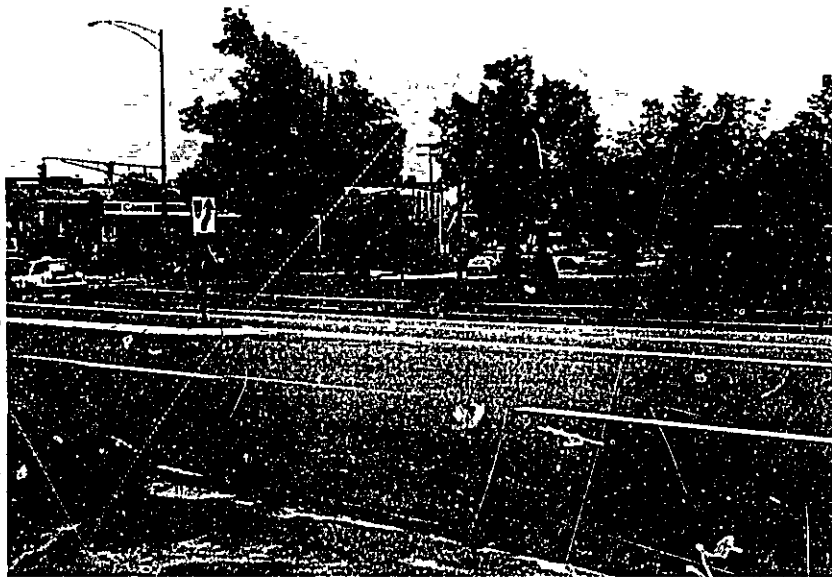
The shape of the site and its' public location have been the same for many years. The existing building has been in it's configuration since 1956. Current plans to renovate the building are a result of the Lopez and Church Company outgrowing the location and moving, and the owner of that company needing to do something with a dilapidated and unsuitable property.

We as architects and owner want to put the best building they can on this visible location. We think that the design presented is that building. We hope you'll agree.

Thank you for your consideration.

John Whipple
architect

Peter Garsoe
owner



1044 W. 11th St.
1044 W. 11th St.
1044 W. 11th St.

Mark Stimson

REALTORS

June 22, 1989

Peter Garsoe
98 Elm St.
Portland, ME 04101

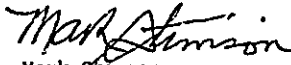
Dear Mr. Garsoe:

This letter is to advise you that Mark Stimson and I, the owners of the building at 53 Baxter Blvd., Portland, Maine, are in support of your proposed plans to renovate and enlarge your building at 55 Baxter Blvd.

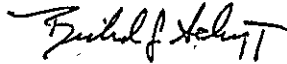
We have reviewed your plans and model and find the proposed building most attractive. We feel the design is best served as proposed and that the set-back will not adversely affect the general character of the neighborhood. We think, in fact, that it will not only improve the subject property, but all surrounding properties also.

With this in mind, we support your proposal and recommend it be approved by the Zoning Board of Appeals.

Sincerely,



Mark Stimson
President



Richard Schweppe
Executive Vice President

MS/RS/bc

Convenient Locations in Maine

Portland - Baxter Blvd.
53 Baxter Boulevard, 04101
(207) 773-1950

Portland - Washington Ave.
813 Washington Ave., 04103
(207) 774-6141

South Portland
758 Main St., 04106
(207) 774-5858

Gray
P.O. Box 620, Main St., 04039
(207) 657-4999, 774-4503

Saco
301 Main St., 04072
(207) 282-5931, (207) 929-5599

Falmouth
37 Depot Rd., 04105
(207) 781-4220

Brunswick
101 Pleasant St., 04011
(207) 729-9986

Westbrook
825 Main St., 04092
(207) 856-6304, (207) 775-1931

Biddeford
312 Elm St., 04005
(207) 252-5988

Windham
Route 302, 04062
(207) 892-2582

Lisbon Falls
62-1 Lisbon Rd., 04252
(207) 353-5521, (207) 688-4887

Auburn
316 Center St., 04210
(207) 786-8940

Stimson Commercial Office
53 Baxter Boulevard, 04101
(207) 774-4891

MSA Insurance
53 Baxter Boulevard, 04101
(207) 775-1552

Administrative Offices
53 Baxter Boulevard, 04101
(207) 879-0770

Applicant: *John Klippke*
Address: *55 Baxter Blvd*

Date: *June 20, 1989*

Assessors No.: ~~B-2 zone~~ *112-E-20*

CHECK LIST AGAINST ZONING ORDINANCE

Date -
Zone Location - *B-2*
Interior or corner lot - *Corner*
Use - *Office Bldg*
Sewage Disposal - *City*
Rear Yards -
Side Yards -
Front Yards -
Projections -
Height -
Lot Area - *19,050 sq. ft.*
Building Area -
Area per Family -
Width of Lot -
Lot Frontage -
Off-street Parking -
Loading Bays -

Owner:
Peter Harsoe
c/o Beau Tech Inc.
98 Elm St., Portland
Owner of Records
in Assessor's:

Marilyn Church
19 Berkeley St.
Portland, Maine
04108

Site Plan -
Shoreland Zoning -
Flood Plains -

PERMIT # _____ TOWN OF Portland BUILDING PERMIT APPLICATION MAP # _____ LOT# _____

Please fill out any part which applies to job. Proper plans must accompany form.

Owner: Peter Garsoe c/o Beau Tech, Inc. X (775-6139)
 Address: 98 Elm St., Portland, 04101
 LOCATION OF CONSTRUCTION 55 Baxter Blvd.
 CONTRACTOR: _____ SUBCONTRACTORS: _____
 ADDRESS: _____

Est. Construction Cost: _____ Type of Use: Setback variance
 Past Use: _____
 Building Dimensions L _____ W _____ Sq. Ft. _____ # Stories: _____ Lot Size: _____
 Is Proposed Use: _____ Seasonal _____ Condominium _____ Apartment _____
Conversion - Explain 9 packets submitted.

COMPLETE ONLY IF THE NUMBER OF UNITS WILL CHANGE
 Residential Buildings Only:
 # Of Dwelling Units _____ # Of New Dwelling Units _____

Foundations:
 1. Type of Soil: _____
 2. Set Backs - Front _____ Rear _____ Side(s) _____
 3. Footings Size: _____
 4. Foundation Size: _____
 5. Other _____

Floors:
 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. Studding 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 _____

For Official Use Only

Date <u>June 5, 1989</u>	Subdivision: Yes / No _____
Inside Fire Limits _____	Name _____
Bldg Code _____	Lot _____
Time Limit _____	Block _____
Estimated Cost _____	Permit Expiration: _____
Value/Structure _____	Ownership: _____ Public _____
Fee <u>\$50.00</u>	_____ F. vato

Ceiling:
 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 _____
 4. Other _____

Chimneys:
 Type: _____ Number of Fire Places _____

Heating:
 Type of Heat: _____

Electric's:
 Service Entrance Size: _____ Smoke Detector Required Yes _____ No _____

Plumbing:
 1. Approva' 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 _____ S. are Footage _____
 3. Must conform to National Electrical Code and _____ Law.

Zoning:
 District _____ Street Frontage Req: _____ Provided: _____
 Required Setbacks: Front _____ Back _____ Side _____

Review Required:
 Zoning Board Approval: Yes _____ No _____
 Planning Board Approval: Yes _____ No _____
 Conditional Use: _____ Variance _____ Site _____ Subdivision _____
 Shore and Floodplain Mgmt _____ Special Exempt _____
 Other: _____ (Explain) _____
 Date Approved _____

Permit Received By Nancy Grossman

Signature of Applicant Michael J. Thwa (AS ABOVE) Date 6-5-89

Signature of CEO _____ Date _____

Inspection Dates _____

Appoint Dated 4-22-89

117-E-20

55 Baxter Blvd
Marine / Whipped

112-E-7 Mark A. ^{Stinson} & Richard J. Schweppe
813 Washington Ave 04103

112-F-22 43 Baxter Blvd. Partners
C O Botu 3679 City 04104

112-C-1 City of Portland

A-17 John J. & Carol W Peters
C O Botu 637 04104

A-7 Harry & Rose L. Superior
3 Deerfield Rd 04101

A-14

June 22, 1989
55 Baxter Blvd

FINDINGS OF FACT
ALL APPEALS

TYPE OF APPEAL Space + Bulk

1. Name of Applicant Peter Gansoe John Whipple Architects

2. Address of Applicant 98 Elm St.

3. Right of applicant to appeal.
Owner

Option to Purchase

4. Location of property under appeal 55 Baxter Blvd.

5. Zone in which the property is located R-2

6. Present use of property Vacant commercial building

7. Proposed use if the appeal is granted.

Renovated commercial building

8. Names and addresses of those appearing in support of the application:

Peter Gansoe, Owner

John Whipple, Arch.

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?

No 5 deny the appeal
0

Reasons (including evidence) Building device NOT
essential to reasonable return

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 0
No 5 (deny the appeal)

Reasons (including evidence) _____

3. Will the granting of the variance alter the essential character of the locality?

Yes 0 (deny the appeal)
No 5

Reasons (including evidence) _____

4. Is the hardship a result of action taken by the applicant or a prior owner (self-created hardship)?

Yes 5 (deny the appeal)
No 0

Reasons (including evidence) Building device

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 June 22, 1989

Motion _____

(including conditions and findings of fact) _____

Votes in Favor - 0

Votes Opposed - 5

John C. Frost

Michael S. Ginter

Wayne A. Smith

David L. Smith

Christopher C. Dineen
