

SUNSHINE
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100 N. 10TH ST. ST. LOUIS, MO. 63103

197-199 ASHMORE STREET



APPLICATION FOR PERMIT

PERMIT ISSUED
Permit No. 1682
OCT 24 1940

Class of Building or Type of Structure _____

Portland, Maine, October 24, 1940

To the INSPECTOR OF BUILDINGS, PORTLAND, ME.

The undersigned hereby applies for a permit to erect alter ~~insert~~ 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 195 Ashmont Street Within Fire Limits? NO Dist. No. _____
 Owner's or Lessee's name and address Walter DeB. Moore, 195 Ashmont St. Telephone _____
 Contractor's name and address Brown & Berry, Inc., 22 Monument Square Telephone 3-2482
 Architect _____ Plans filed NO No. of sheets _____
 Proposed use of building dwelling house No. families 1
 Other buildings on same lot _____
 Estimated cost \$ 75. Fee \$.50

Description of Present Building to be Altered

Material WOOD No. stories 2 1/2 Heat _____ Style of roof _____ Roofing _____
 Last use dwelling house No. families 1

General Description of New Work

To provide new bath room app. 3' x 5' on first floor front hall, cutting in new window at least three square feet in area for ventilation of same

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

CERTIFICATE OF OCCUPANCY
REQUIREMENT IS WAIVED

Is any plumbing work involved in this work? yes
 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 _____
 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) 2x4-10" 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? YES

INSTRUCTION COPY

Signature of owner Walter DeB. Moore.
By Brown & Berry, Inc.

By Edward C. Berry.

2062

FILL IN COMPLETELY AND SIGN WITH INK

PERMIT ISSUED
Permit No. 1233



APPLICATION FOR PERMIT FOR HEATING, COOKING OR POWER EQUIPMENT

Portland, Maine, August 30, 1934

To the INSPECTOR OF BUILDINGS, PORTLAND, ME.

The undersigned hereby applies for a permit to install the following heating, cooking or power equipment in accordance with the Laws of Maine, the Building Code of the City of Portland, and the following specifications:

Location 195 Ashmont Street Use of Building Residence
Name and address of owner Walter De G. Moore, 96 Ashmont Street Ward 8
Contractor's name and address Easternoil Inc., 135 Marginal Way Telephone 3-6495

General Description of Work

To install One Model A Easternoil Oil Burner with 275 gallon tank.

IF HEATER, POWER BOILER OR COOKING DEVICE

Is heater or source of heat to be in cellar? yes If not, which story _____ Kind of Floor concrete
Material of supports of heater or equipment (concrete floor or what kind) _____
Minimum distance to wood or combustible material, from top of boiler or casing top of furnace, _____
from top of smoke pipe _____, from front of heater _____ from sides or back of heater _____

NOTIFICATION BEFORE LATHING
ON CLOSING IN IS WAIVED.
CERTIFICATE OF OCCUPANCY
REQUIREMENT IS WAIVED.

IF OIL BURNER

Name and type of burner Easternoil-gun type Labeled and approved by Underwriters' Laboratories? yes
Will operator be always in attendance? no Type of oil feed (gravity or pressure) pressure
Location oil storage cellar No. and capacity of tanks one 275 gallon
Will all tanks be more than seven feet from any flame? yes How many tanks fireproofed? _____
Amount of fee enclose? \$1.00 (\$1.00 for one heater, etc., 50 cents additional for each additional heater, etc., in same building at same time.)

Signature of contractor Easternoil Inc
G. J. McCarwick 2533B

INSPECTION COPY

Ward 8 Permit No. 34/1333
 Location 19th & Colman St.
 Owner Walter J. McNamee
 Date of permit 8/30/34
 Notif. closing-in _____
 Inspn. closing-in _____
 Final Notif _____
 Final Inspn. 11/30/34, 07, 08, 09.
 Cert. of Occupancy issued Permit

NOTES

1. Kind of heat Steam
2. Label ✓
3. Anti-siphon ✓
4. Oil storage ✓
5. Trap distance ✓
6. Vent pipe ✓
7. Fill pipe ✓
8. Gauge ✓
9. Integrity ✓
10. Food safety ✓
11. Pipe sizes & material ✓
12. Control valves ✓
13. Ash pit ✓
14. Temp. of heating safety ✓
15. Instruction card None

*11/30/34 Permit was not got by O.C.
 11/30/34 Permit was not got by O.C.
 will have instructions
 sent on job. Check &*

*No more about
 combustible covering close
 to boiler this will be
 removed approximately 15
 feet and this should
 be done by 11/30/34
 O.C.*



APPLICATION FOR PERMIT

PERMIT ISSUED
2071

Class of Building or Type of Structure Third Class

OCT 5 1920

To the INSPECTOR OF BUILDINGS, PORTLAND, ME.

Portland, Maine, October 3, 1920

The undersigned hereby applies for a permit to ~~erect~~ alter ~~erect~~ 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 195 Ashmont Street Ward 8 Within Fire Limits? No Dist. No. _____

Owner's or Lessee's name and address Walter DeQ. Moore, 195 Ashmont St. Telephone _____

Contractor's name and address A. F. Patterson, 62 Lincoln St. Telephone F 5016 M

Architect's name and address _____ Telephone _____

Proposed use of building 2 car garage No. families _____

Other buildings on same lot Dwelling house 1 family No. families _____

Description of Present Building to be Altered

Material Wood No. stories 3 Heat _____ Style of roof _____ Roofing _____

Last use 2 car garage No. families _____

General Description of New Work

To demolish addition to garage 10 x 22'

Details of New Work

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 _____

Material of underpinning _____ Height _____ Thickness _____

Kind of roof _____ Roof covering _____

No. of chimneys _____ Material of chimneys _____ of lining _____

Kind of heat _____ Type of fuel _____ Distance, heater to chimney _____

If oil burner, name and model _____ Capacity and location of oil tanks _____

Is gas fitting involved? _____

Corner posts _____ Sills _____ Girt or ledger board? _____ Size _____

Material columns under girders _____ Size _____ Max. on centers _____

Struc. (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

Plans filed as part of this application? no No. sheets _____

Estimated cost \$ _____ Fee \$ 10

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 Walter DeQ. Moore
A. F. Patterson

7721



Location, Ownership and detail must be correct, complete and legible.
 Separate application required for every building.
 Plans must be filed with this application.

Application for Permit for Alterations, etc.

To the Portland, Me., August 5, 1924 19
 INSPECTOR OF BUILDINGS:

The undersigned applies for a permit to alter the following described building:—

Location 195 Ashmont Street Ward 8 in fire-limits? no
 Name of Owner or Lessee, Walter De C. Moore Address 195 Ashmont St
 " " Contractor, owner " "
 " " Architect, " "

Description of Present Bldg.

Material of Building is wood Style of Roof, pitch Material of Roofing, shingle
 Size of Building is 30ft feet long; 25ft feet wide. No. of Stories, 2 1/2
 Cellar Wall is constructed of stone is _____ inches wide on bottom and batters to _____ inches on top.
 Underpinning is brick is _____ inches thick; is _____ feet in height.
 Height of Building 30ft Wall, if Brick; 1st, _____ 2d, _____ 3d, _____ 4th, _____ 5th, _____
 What was Building last used for? dwelling No. of Families? 1
 What will Building now be used for? dwelling one family

PERMIT MUST BE OBTAINED BEFORE BEGINNING WORK

Detail of Proposed Work

Glass in porch all to comply with the building ordinance

Estimated Cost \$175.

If Extended On Any Side

Size of Extension, No. of feet long?.....; No. of feet wide?.....; No. of feet high above sidewalk?.....
 No. of Stories high?.....; Style of Roof?.....; Material of Roofing?.....
 Of what material will the Extension be built?..... Foundation?.....
 If of Brick, what will be the thickness of External Walls?..... inches; and Party Walls..... inches.
 How will the extension be occupied?..... How connected with Main Building?.....

When Moved, Raised or Built Upon

No. of Stories in height when Moved, Raised, or Built upon?..... Proposed Foundations.....
 No. of feet high from level of ground to highest part of Roof to be?.....
 How many feet will the External Walls be increased in height?..... Party Walls.....

If Any Portion of the External or Party Walls Are Removed no

Will an opening be made in the Party or External Walls?.....in.....Story.
 Size of the opening?.....How protected?.....
 How will the remaining portion of the wall be supported?.....

Signature of Owner or Authorized Representative Walter De C. Moore
 Address 195 Ashmont St



City of Portland.

To the Inspector of Buildings of the City of Portland:

The undersigned respectfully makes application for a permit to ~~erect~~ enlarge a building on Delaware street, at number 3352 to be 7-8-1911 stories high, 15 feet wide; also an addition to be 10 feet long, 10 feet wide, and to be used as a Garage

The material to be used in the erection enlargement of said building is to be as follows: Exterior walls to be made of Red Portland Cement Roof to be made of Galvanized Iron Gutters to be made of Iron Cornices to be made of Iron Bay windows to be made of Iron Dormer windows to be made of Iron

The builder is John J. DeMott Address 72 Lockwood St.
The architect is John J. DeMott Address 72 Lockwood St.
The owner is John J. DeMott Address 72 Lockwood St.

(Applicant to sign here) John J. DeMott

OFFICE OF INSPECTOR OF BUILDINGS, FOR THE CITY OF PORTLAND. OFFICE HOURS: 10-11 A. M. 4-5 P. M.

The above petition was granted the 3 day of July 1911.

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



GAIL D. ZAYAC
Chairperson

MICHAEL E. WESTORT
Secretary

JACQUELINE COHEN
TIMOTHY E. FLAHERTY
EUGENE S. MARTIN
THOMAS J. MURPHY
MERRILL S. SELTZER

191 Ashmont St.

February 25, 1982

Mr. David Turesky, Attorney
477 Congress Street
Portland, Maine 04101

Dear Mr. Turesky:

The Board of Appeals has been advised by the Corporation Counsel that they do not have the authority to hear the interpretation appeal concerning 191 Ashmont Street.

Therefore, the Board has asked me to notify you that it will not hear the appeal which was requested. A refund of your remittance will be sent to you under separate cover. This action was so voted by the Board on Thursday, February 25, 1982.

Sincerely,

Joseph E. Gray, Jr.
Joseph E. Gray, Jr., Director
Planning and Urban Development

JEG/wt

cc: Chairman and Members of the Board of Appeals

389 CONGRESS STRFET • PORTLAND, MAINE 04101 • TELEPHONE (207) 775-5451

LAW OFFICES
David S. Turesky
477 CONGRESS STREET
SUITE 716
PORTLAND, MAINE 04101
(207) 772-7120

DAVID S. TURESKY

February 23, 1982

JOHN C. HOWARD

Mr. Warren J. Turner
Zoning Specialist
City of Portland
Portland City Hall
389 Congress St.
Portland, Maine 04101

Dear Mr. Turner:

As you know, the abutters and neighbors of 191 Ashmont Street, Portland, Maine do intend to appear at the Planning Board of Appeals meeting on Thursday, March 11, 1982. We do think it a good idea that the owners of 191 Ashmont Street be formally notified of this Hearing. They are, to the best of our knowledge and belief, Mr. and Mrs. Ed Piscopo and Mrs. Herman Low.

Most sincerely yours,
David S. Turesky
David S. Turesky

DST:mm

Sent by registered mail

LAW OFFICES
David S. Turesky
477 CONGRESS STREET
SUITE 716
PORTLAND, MAINE 04101
(207) 772-7120

DAVID S. TURESKY

February 23, 1982

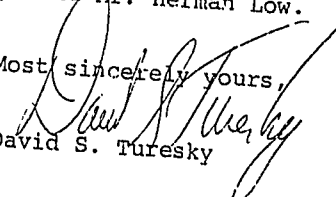
JOHN C. HOWARD

Mr. Warren J. Turner
Zoning Specialist
City of Portland
Portland City Hall
389 Congress St.
Portland, Maine 04101

Dear Mr. Turner:

As you know, the abutters and neighbors of 191 Ashmont Street, Portland, Maine do intend to appear at the Zoning Board of Appeals meeting on Thursday, March 11, 1982. We do think it a good idea that the owners of 191 Ashmont Street be formally notified of this Hearing. They are, to the best of our knowledge and belief, Mr. Alfred Piscopo and Mr. Herman Low.

Most sincerely yours,


David S. Turesky

DST:mm

Sent by registered mail

5
E. J. Kearney
195 Ashmont St
Portland, Me. 04103

Warren J. Turner
Zoning Specialist
Board of Appeals

Feb. 19, 1982

Dear Mr. Turner:

We, the undersigned, wish to
have our Interpretation Appeal considered
and heard before the Zoning Board of Appeals
on Mar. 11.

Thank you for scheduling us.

Sincerely,

Ed. + Connette Kearney

Richard & Patricia Devaine

James J. McManis III

James P. Gull

LAW OFFICES
David S. Turesky
477 CONGRESS STREET
SUITE 716
PORTLAND, MAINE 04101
(207) 772-7120

DAVID S. TURESKY

February 19, 1982

JOHN C. HOWARD

Mr. Warren J. Turner
Zoning Specialist
City of Portland
Portland City Hall
389 Congress St.
Portland, Maine 04101

Dear Mr. Turner:

I now enclose my own office check in the amount of \$25 to cover the appeal involving 191 Ashmont Street, Portland, Maine. It is my understanding that several neighbors of the subject property will be sending in a letter confirming their desire to appeal. I look forward to meeting you and the members of the Board on Thursday, March 11, 1982.

Most sincerely yours,
David S. Turesky
David S. Turesky

DST:mm

Encl.

LAW OFFICES
David S. Turesky
477 CONGRESS STREET
SUITE 716
PORTLAND, MAINE 04101
(207) 772-7120

DAVID S. TURESKY

February 19, 1982

JOHN C. HOWARD

Mr. Warren J. Turner
Zoning Specialist
City of Portland
Portland City Hall
389 Congress St.
Portland, Maine 04101

Dear Mr. Turner:

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Most sincerely yours,
David S. Turesky
David S. Turesky

DST:mmm

Encl.

LAW OFFICES
David S. Turesky
477 CONGRESS STREET
SUITE 716
PORTLAND, MAINE 04101

(207) 772-7120

DAVID S. TURESKY

February 16, 1982

JOHN C. HOWARD

Mr. Warren Turner
c/o Planning Dept.
Portland City Hall
389 Congress St.
Portland, Maine 04101

Dear Mr. Turner:

Should there be any doubt whatsoever that Mr. and Mrs. Edward J. Kearney et al wish to be heard before the Portland Zoning Board of Appeals with regard to 191 Ashmont Street, please do take this letter as a formal petition of appeal. I do imagine that our letters crossed in the mail, and I pen this brief note to assure you and the Board of my client's intention to be heard at the soonest possible time.

Most sincerely yours,

David S. Turesky
David S. Turesky

DST:mmm

LAW OFFICES
David S. Turesky
477 CONGRESS STREET
SUITE 716
PORTLAND, MAINE 04101

(207) 772-7120

DAVID S. TURESKY

February 16, 1982

JOHN C. HOWARD

Mr. Warren Turner
c/o Planning Dept.
Portland City Hall
389 Congress St.
Portland, Maine 04101

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Most sincerely yours,


David S. Turesky

DST:mm

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



GAIL D. ZAYAC
Chairperson

MICHAEL E. WESTORT
Secretary

JACQUELINE COHEN
TIMOTHY E. LAHERTY
EUGENE S. MARTIN
THOMAS J. MURPHY
MERRILL S. SELTZER

191 Ashmont St.

February 18, 1982

Mr. David Turesky, Attorney
477 Congress Street
Portland, Maine 04101

Dear Mr. Turesky:

With reference to your letter of February 16th, the next agenda available to your client will be the meeting of Thursday, March 11th, 1982 for hearing of an interpretation appeal before the Board of Appeals. Agenda for February 25th has already been mailed out.

Your request for such an appeal should be accompanied by a fee of \$25.00 plus the signature of the property owners applying for that action.

Sincerely,

Warren J. Turner
Zoning Specialist

c.c. David Lourie, Corporation Counsel
c.c. P.S. Hoffses, Chief of Insp. Services

Revised Draft

February 8, 1982

Mr. and Mrs. Edward J. Kearney
195 Ashmont Street
Portland, ME 04103

Dear Mr. and Mrs. Kearney:

As a result of recent legal advice, the Zoning Board of Appeals has agreed to consider an Interpretation Appeal on the matter of the use at 191 Ashmont Street if you should elect to apply for an appeal.

They would also caution you to understand that there are two issues concerned: if the appeal is properly before the Board; and, the substance of the appeal (use of the building).

If you should have any questions, please call me or Gail Zayac (774-7136).

Sincerely,

Warren J. Turner
Zoning Specialist

cc: *Mrs. Gail B. Zayac, Chairman, Board of Appeals*
P.S. Hoffner, Chief, Inspection Services

*Received from Gail Zayac
on Feb 8, 1982 W.J.T.*

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



191 Ashmont St.

GAIL D. ZAYAC
Chairperson

MICHAEL E. WESTORT
Secretary

JACQUELINE COHEN
TIMOTHY E. FLAHERTY
EUGENE S. MARTIN
THOMAS J. MURPHY
MERRILL S. SELTZER

February 9, 1982

Mr. and Mrs. Edward J. Kearney
195 Ashmont St.
Portland, Me. 04103

Dear Mr. & Mrs. Kearney.

As a result of recent legal advice, the Zoning Board of Appeals has agreed to consider an Interpretation Appeal on the matter of the use at 191 Ashmont Street if you should elect to apply for an appeal.

They would also caution you to understand that there are two issues concerned: if the appeal is properly before the Board; and, the substance of the appeal (use of the building).

If you should have any questions, please call me or Gail Zayac (774-7136).

Sincerely,

Warren J. Turner
Zoning Specialist

c.c. Mrs. Gail D. Zayac, Chairman, Board of Appeals
P.S. Hoffses, Chief of Inspection Services

Revised Draft

February 8, 1982

Mr. and Mrs. Edward J. Kearney
195 Ashmont Street
Portland, ME 04103

Dear Mr. and Mrs. Kearney:

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They would also caution you to understand that there are two issues concerned: if the appeal is properly before the Board; and, the substance of the appeal (use of the building).

If you should have any questions, please call me or Gail Zayac (774-7136).

Sincerely,

Warren J. Turner
Zoning Specialist

cc: *Mrs. Gail A. Zayac, Chairman, Board of Appeals*
PS Hoffer, Chief, Inspection Services

*Received from Gail Zayac
on Feb. 8, 1982 W.J.T.*

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



GAIL D. ZAYAC
Chairperson
MICHAEL E. WESTORT
Secretary

JACQUELINE COHEN
TIMOTHY E. FLAHERTY
EUGENE S. MARTIN
THOMAS J. MURPHY
MERRILL S. SELTZER

DRAFT

191 Ashmont Street

February 2, 1982

Mr. & Mrs. Edward J. Kearney
195 Ashmont St.
Portland, Me. 04103

Dear Mr. & Mrs. Kearney:

Following careful study and analysis of the rights and authority of the Board of Appeals with respect to your problem pertaining to Ashmont Street, the Board has determined that you might have initiated an application for an Interpretation Appeal in that matter.

Due to the complicated legal nature of the matter and its rather unusual procedural intricacies, if you still feel inclined to file an Interpretation Appeal for consideration by the Board of Appeals, please do not hesitate to do so. The Board of Appeals will then schedule a review of the entire matter as part of one of its forthcoming agendas.

Sincerely,

Warren J. Turner
Zoning Specialist

- c.c. Mrs. Gail D. Zayac
Chairman, Board of Appeals
- c.c. P.S. Hoffses, Chief of Inspection Services
- c.c. David Turesky, Attorney
- c.c. David Lourie, Corporation Counsel
- c.c. Richard Flewelling, Asst. Corporation Counsel

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



GAIL D. ZAYAC
Chairperson
MICHAEL E. WESTORT
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JACQUELINE COHEN
TIMOTHY E. FLAHERTY
EUGENE S. MARTIN
THOMAS J. MURPHY
MERRILL S. SELTZER

DRAFT

191 Ashmont Street

February 2, 1982

Mr. & Mrs. Edward J. Kearney
195 Ashmont St.
Portland, Me. 04103

Dear Mr. & Mrs. Kearney:

Following careful study and analysis of the rights and authority of the Board of Appeals with respect to your problem pertaining to Ashmont Street, the Board has determined that you might have initiated an application for an Interpretation Appeal in that matter.

Due to the complicated legal nature of the matter and its rather unusual procedural intricacies, if you still feel inclined to file an Interpretation Appeal for consideration by the Board of Appeals, please do not hesitate to do so. The Board of Appeals will then schedule a review of the entire matter as part of one of its forthcoming agendas.

Sincerely,

Warren J. Turner
Zoning Specialist

- c.c. Mrs. Gail D. Zayac
Chairman, Board of Appeals
- c.c. P.S. Hoffses, Chief of Inspection Services
- c.c. David Turesky, Attorney
- c.c. David Lourie, Corporation Counsel
- c.c. Richard Flewelling, Asst. Corporation Counsel

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



Gail D. Zayac
Chairman
Michael Westort
Secretary
JA NE COHEN
TIMC E. FLAHERTY
EUGENE S. MARTIN
MERRILL S. SELTZER
Thomas Murphy

November 16, 1981

Mr. James Tierney
Attorney General
State House
Augusta, ME 04333

Dear Mr. Tierney:

As Chair of the Portland Zoning Board of Appeals, I am writing to you on unanimous vote of the Zoning Board of Appeals for assistance. We are a Board properly constituted under state law and we are concerned about the subject of the scope of our jurisdiction and authority under that state law. Specifically, we are faced with a situation in which opposing parties have opposite views about our jurisdiction to hear an interpretation appeal. It is our sincere hope that you, as Attorney General, will assist us in determining our proper jurisdiction by rendering to us an advisory opinion on this matter. We hope you are able and willing to do so and, because of the nature of the case, in as short a time as possible.

Section 602.24 A of the Portland Zoning Ordinance states:
"The Board of Appeals shall have the following jurisdiction and authority:

1. Subject to the provisions of Section 602.24 B hereof, to hear and decide appeals from and review orders, decisions, determinations, or interpretations made by the Building and Inspection Services Department"

Section 602.24 B states:

- "1. Authority. The Board of Appeals shall hear and decide appeals from and review orders, decisions, determinations or interpretations or the failure to act of the Building and Inspection Services Department.

2. Procedure.

- a. Notice of Appeal. An appeal may be taken to the Board of Appeals by any person affected by a decision of the Building and Inspection Services Department. Such

Mr. James Tierney, Attorney General
November 16, 1981
Page Two

appeal shall be taken within thirty days of the action complaint of by filing with the Building and Inspection Services Department a notice of appeal specifying the grounds thereof. A payment of a nonrefundable filing fee, as established from time to time by the City Council to cover administrative costs and costs of hearing, shall accompany notice of appeal. The Building and Inspection Services Department shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken."
(pg. 103)

As we understand the situation in question, the following sequence of events occurred:

1. The agent for the house owners asked the Building Inspector if a particular use was permitted.
2. The Building Inspector said that the use was not permitted in the zone in question.
3. The agent asked the Corporation Counsel for an opinion.
4. The Corporation Counsel said the use was permitted in the zone in question.
5. The Building Inspector was sent a memo. from the Corporation Counsel to that effect.
6. The Building Inspector took no further action.
7. Abutting property owners questioned the interpretation of the Zoning Ordinance and attempted to file with the Building Inspector a request for an interpretation appeal by the Zoning Board of Appeals.
8. The Building Inspector, on advice from the Corporation Counsel, refused to process the appeal.
9. The Corporation Counsel stated that the Board did not have jurisdiction to hear this appeal for the following reasons:
 - a. The abutting property owners are not "affected parties."
 - b. Since a permit was not applied for and since the Director of Planning and Urban Development (Building Inspector is in this department) determined that no permit was needed, the Board has no jurisdiction because there had been no "action" and it can grant no relief. (see Mr. Flewelling's memo)

Mr. James Tierney, Attorney General
November 16, 1981
Page Three

10. The abutting property owners, in informal discussion with the Board about the issue of jurisdiction, requested their attorney to submit to the Board a position paper outlining their views on this issue. (see letter from David S. Turesky)

On November 12, 1981, the Zoning Board of Appeals of the City of Portland voted to request impartial counsel on this issue. We need to know the answers to the following questions:

1. Does the Board have jurisdiction to hear an interpretation appeal in this situation?
2. Are the abutters "affected parties" and legally qualified to bring an appeal to the Board?

We would very much appreciate whatever assistance you could give us in this case. Thank you for your attention.

Sincerely yours,

Gail D. Zayac, Chair
Portland Zoning Board of Appeals

gdz

Enc.: memo from Richard P. Flewelling
letter from David S. Turesky

cc: Portland City Councillors
Tim Honey, City Manager
Joseph Gray, Director of Planning and Urban Development
David Lourie, Corporation Counsel
David Turesky
Members of the Zoning Board of Appeals

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Malcolm Ward, Zoning Code Enforcement Officer
FROM: Richard P. Flewelling, Assistant Corporation Counsel
SUBJECT: "Appeal" of Edward F. Kearney, et al.

DATE: 9/28/81

The attached letter requests a hearing to "appeal" my opinion of August 18th concerning 191 Ashmont Street. While it is not clear whether the signatories mean to appeal to the Board of Appeals, if they do, their petition is fatally defective for several reasons. First, the Board has no jurisdiction under either State (30 M.R.S.A. §4963) or local (§602.24.B) law to hear such an appeal.* Second, even if the Board had jurisdiction, this appeal was not timely filed (i.e., within 30 days). §602.24.B(2)(a). Third, the appeal was not accompanied by the filing fee, also as required by §602.24.B(2)(a).

If, on the other hand, the signatories intend to appeal informally (i.e., in-house) to your staff superior, they may of course do so although there is no established procedure for this and the matter would be entirely within his discretion.

I hope that this clarifies this matter.

Richard P. Flewelling
Richard P. Flewelling
Assistant Corporation Counsel

cc: Joseph E. Gray, Jr.

*It does have jurisdiction to hear an appeal from your department's failure to act, but only if the appeal is taken by a "person affected". §602.24.B(2)(a).

LAW OFFICES
David S. Turesky
477 CONGRESS STREET
SUITE 716
PORTLAND, MAINE 04101
(207) 772-7120

DAVID S. TURESKY

JOHN C. HOWARD

November 6, 1981

The Board of Appeals
c/o Office of the City Manager
Portland City Hall
389 Congress St.
Portland, Maine 04101

Dear Gentlemen and Ladies of The Board of Appeals:

As a result of our informal conference on Thursday, October 29, 1981, I wish to respond to the memorandum of Richard P. Flewelling, dated September 28, 1981, and the remarks of Portland's Corporation Counsel, David Lourie, delivered at and during the formal part of your Board's meeting. I shall now address myself to two issues raised by our discussion: 1) Does the Board have jurisdiction (or authority) to hear the Appeal of the Kearneys and other abutters? 2) Do the Kearneys have standing to petition this board for relief?

The law applicable to this situation can be found at Title 30, Section 2411 of our Maine statutes and at Section 602.24 A and B of Portland's Municipal Code. The State's broad enabling legislation grants the Board jurisdiction "to hear any Appeal...from any decision, order, rule, or failure to act of any officer, board, agency..." Within that broad ambit of jurisdiction and authority, the City of Portland fashioned the following procedure: "An Appeal may be taken...by any person affected by a decision of the Building and Inspection Services Department." "The Board shall hear and decide Appeals from and review orders, decisions, determination, or interpretations or the failure to act of the Building and Inspection Services Department."

In the instant case, Mr. Richard Flewelling, acting on behalf of the City and, more specifically, on behalf of the Buildings and Inspection Services Department, rejected on August 18, 1981 the petition of my clients, who sought the City's help in joining a misuse of the property at 191 Ashmont Street, Portland, Maine. While Mr. Flewelling's memorandum may not be considered an order since he is not and was not acting as a judicial or quasi-judicial authority, he was clearly rendering an interpretation of both municipal and Federal law. We believe, quite

Continued Pg. 2

The Board of Appeals
Portland, Maine 04101

Page 2

November 6, 1981

simply, that the Board has jurisdiction to hear our Appeal from this interpretation.

Mr. Kearney asked Mr. Flewelling to send him a copy of his interpretation as soon as it became available. Unfortunately, Mr. Flewelling did not comply with this altogether reasonable request by a citizen of this City. As soon as Mr. Kearney did learn of Mr. Flewelling's adverse interpretation, he sought an Appeal by delivering a letter of Appeal, dated September 24, 1981, to Mr. Malcolm Ward along with a tendering of a check in the amount of \$25. Mr. Ward took the Appeal to Mr. Flewelling, and subsequently informed Mr. Kearney that he could not Appeal and that he, Mr. Ward, would not accept his check. In an effort to clear the confusion over the timeliness of our Appeal, I sent my letters of October 13, 1981 seeking a final denial by Mr. Gray, from which I would then appeal to the Board. Unfortunately, no further action has been taken by Mr. Gray on my corrective Motion.

In addition, Mr. Kearney and his neighbors sought a more favorable order, decision, determination, and/or interpretation from several City officials, including Mr. Flewelling's immediate supervisor, the City Manager, Mr. Malcolm Ward, and Mr. Joseph Gray. They refused to be of further assistance to my clients; in the words of both the State statutes and the municipal ordinance, they failed to act favorably upon my clients' petition.

It seems to be Mr. Lourie's contention that my clients cannot be heard by your Board because no permit was ever applied for and denied or approved. Mr. Lourie throughout his discussion used the term "permit" as some magical term which alone would and could set off your action. There is, however, no such word ever used either in the State statute or the municipal ordinance. There is, in fact, absolutely no support whatsoever in any of the literature for Mr. Lourie's position. So-called "affected persons" have access to your ear whenever they are aggrieved by an order, decision, determination, or interpretation of a local official, board or agency. Certainly, a decision by this Board reversing the opinion and interpretation of Mr. Flewelling would be of embarrassment to the City, and it is my clients' firm belief that this embarrassment and the resultant confusion animate such a bizarre interpretation of our laws.

With regard to the second question posed above, it would seem clear to me that the Kearneys and other neighbors of 191 Ashmont Street are "persons affected directly or indirectly" by the present zoning ordinance violations. They are for the

Continued Pg. 3

CITY OF PORTLAND, MAINE
MEMORANDUM

DATE: 10/19/81

TO: Stephen T. Honey, City Manager

FROM: Richard P. Flewelling, Assistant Corporation Counsel

SUBJECT: Jurisdiction of the Board of Appeals

This memorandum is in response to your recent request for a simple, concise written summary of the Board of Appeals' jurisdiction to hear and decide zoning appeals.

* * * * *

Jurisdiction Established by Law

The Board's jurisdiction, or legal authority, is established by State law (30 M.R.S.A. §4963), which grants to the Board the authority:

- a) To interpret provisions of the Zoning Ordinance which are called into question;
- b) To approve the issuance of conditional use permits;
- c) To grant variances.

The Board "may (not) assert jurisdiction over any (other) matter unless the municipality has by ordinance specified the precise subject matter that may be appealed to the board and the official or officials whose action or nonaction may be appealed to the board." (Emphasis supplied.) 30 M.R.S.A. §2411(4). A municipality may not vest the board with jurisdiction that is inconsistent with State law, however. See 30 M.R.S.A. §1917.

Accordingly, Section 602.24 of the Zoning Ordinance grants to the Board the additional authority:

- d) To initiate zoning amendments;
- e) To vary certain provisions of the Zoning Ordinance relating to nonconforming uses.

Proper Appeal Required

Under State law and the Zoning Ordinance, a proper appeal is required for the Board to have jurisdiction. (A "proper" appeal is one that is brought by a "person affected", conforms to procedural requirements, such as timeliness, and questions on action that is in fact appealable.) The Board is a quasi-judicial body, not an investigative agency; it cannot initiate its own appeal. Moreover,

Stephen T. Honey
October 19, 1981
Page 2

the scope of its inquiry and the relief, if any, granted is limited to the subject matter of the appeal.

Interpretation Appeals

There has been some confusion recently about the Board's authority to interpret the Zoning Ordinance (i.e., the so-called "interpretation appeal"). This confusion may have arisen as the result of a poorly worded provision in §602.24.A of the Zoning Ordinance which purports to grant jurisdiction "to hear and decide appeals from, and review . . . interpretations made by (the Director of Planning and Urban Development)." (Emphasis supplied.) This language erroneously suggests that the Board, without a proper appeal before it and on its own initiative, may countermand the Director's interpretation of the Zoning Ordinance. This, of course, is not the case since, under governing State law (see discussion above), a proper appeal is a condition precedent to the Board's jurisdiction. To be given any legal effect, this language must, therefore, be read as giving the Board authority to review such matters only within the context of an appeal.

Another aspect of the confusion surrounding the Board's authority to interpret the Zoning Ordinance is whether a permit must have been applied for. The Board is charged by State law and the Zoning Ordinance with "hearing appeals from actions or the failure to act of (the Director of Planning and Urban Development)." 30 M.R.S.A. §4963(1). Some "action", or the failure to act where there is a duty to act, is thus a prerequisite for appeal. The Director's only official "action" with respect to the Zoning Ordinance, however, is in approving or denying permits. See §602.22.A and C of the Zoning Ordinance; also 30 M.R.S.A. §2151(4)(C). Hence, nothing short of "action" or the failure to act on a permit may be appealed to the Board.

This conclusion is buttressed by what would be the anonymous result if the Board nevertheless asserted jurisdiction where no permit has been applied for and the Director has determined that no permit is needed. Assuming that the would-be appellant (obviously someone other than the person who has been told that he has no need of a permit) is a "person affected" within the meaning of State law and the Zoning Ordinance (see discussion above), the Board in this instance can grant no relief.* Apart from simply declaring its interpretation of the Zoning Ordinance, the Board has no power to do anything about the appeal. It cannot, for example, order the person who has been told that he has no need of a permit to obtain one anyway because that is a prerogative of the courts. Nor can it order the Director to require a permit, or the Corporation Counsel to prosecute for the failure to obtain one, because administration and enforcement is the responsibility of the Director.

*This is not to suggest that a "person affected" has no remedy in such a case, only that the Board has no authority to grant relief and is, therefore, an improper forum for appeal.

Stephen T. Honey
October 19, 1981
Page 3

with the assistance of the Corporation Counsel. See §§602.22.A and 602.26.A, respectively, of the Zoning Ordinance. Thus, where no relief can be granted, it may be inferred that there is no jurisdiction.

Summary

In summary, the Board's jurisdiction in zoning matters is established and governed by State law and the Zoning Ordinance to the extent that the Zoning Ordinance is consistent with State law. The Board has no jurisdiction except as expressly granted by law, and a proper appeal is required for the Board to assert jurisdiction. In the case of interpretation appeals, the Board may order that a permit that has been applied for issue, or that it be denied, but where no permit has been applied for and the Director of Planning and Urban Development has determined that no permit is needed, the Board has no jurisdiction because there has been no "action" and it can grant no relief.

* * * * *

Although much more could be written here about this subject, I believe that the basic points have been covered. I hope that this outline is helpful to you. Please contact me if you have any questions.

Richard P. Flewelling
Richard P. Flewelling
Assistant Corporation Counsel

RPF/ljn



JAMES E. TIERNEY
ATTORNEY GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

December 15, 1981

Gail D. Zayac
Chairman, Zoning Board of Appeals
City of Portland
Portland, Maine

Dear Ms. Zayac,

Thank you very much for your correspondence which was hand delivered to me by Senator Mary Najarian. I must respectfully decline to answer your questions. The difficulty you have outlined is essentially local in nature and beyond the jurisdiction of my office. Perhaps further discussion with your corporation counsel or the Maine Municipal Association might be helpful to you in solving this question. I am sure you can understand why my Department cannot be involved in interpreting the many local zoning ordinances around the State.

Again, thank you for your correspondence and I am sorry I could not be of greater assistance.

Sincerely,

James E. Tierney
Attorney General

JET/kc
cc: Tim Honey, City Manager
David Lourie, Corporation Counsel
David Turosky, Esquire
Mary Najarian, State Senator

EXECUTIVE SESSION MOTION

I move that the Board of Appeals go into executive session to discuss the following matters as permitted by Title 1 MRSA Sections 401 et. seq.:

(SPECIFY AS TO THE PRECISE NATURE OF EACH ITEM TO BE DISCUSSED: CROSS-HATCH THOSE ITEMS NOT TO BE DISCUSSED. LANGUAGE FROM 1 MRSA §405 PROVIDED IN PARENTHESIS FOR YOUR INFORMATION. NO MATTER OTHER THAN THAT LISTED MAY BE DISCUSSED IN EXECUTIVE SESSION.)

1. Discussion of personnel matters as follows: personal liability of board members.

(Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated shall be permitted to be present at an executive session if he so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against him be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.)

2. Discussion of the suspension or expulsion of
(Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, provided that:

- (1) The student and legal counsel and, if the student be a minor, the student's parents or legal guardians shall be permitted to be present at an executive session if the student, parents or guardians so desire.)

3. Discussion of the _____ of _____
property described as follows: _____

(Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency.)

4. Collective bargaining negotiations with _____

(Discussion of labor contracts and proposals and meetings with negotiation team.)

5. Consultation with the Corporation Counsel (legal counsel) concerning its and liabilities of Bd of Appeals and individual members concerning alleged appeal of use of 191 Ashmont St.

(Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's counsel to his or her client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the state, municipality or other public agency or person at a substantial disadvantage.)

6. Discussion of confidential records (Specify) _____

(Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.)

David Lurie Corp. Counsel
(Signature and Title of Recording Official)

Date: 11/12/81

Yeas 7 Nays 0
Yeas needed .6 X 7 = 5

GIVE TO CITY CLERK FOR RETENTION

EXECUTIVE SESSION MOTION

I move that the Board of Appeals go into executive session to discuss the following matters as permitted by Title 1 MRSA Sections 401 et. seq.:

(SPECIFY AS TO THE PRECISE NATURE OF EACH ITEM TO BE DISCUSSED: CROSS-HATCH THOSE ITEMS NOT TO BE DISCUSSED. LANGUAGE FROM 1 MRSA §105 PROVIDED IN PARENTHESIS FOR YOUR INFORMATION. NO MATTER OTHER THAN THAT LISTED MAY BE DISCUSSED IN EXECUTIVE SESSION.)

1. Discussion of personnel matters as follows: personal liability of board members.

(Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated shall be permitted to be present at an executive session if he so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against him be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.)

2. Discussion of the suspension or expulsion of _____
(Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, provided that:

- (1) The student and legal counsel and, if the student be a minor, the student's parents or legal guardians shall be permitted to be present at an executive session if the student, parents or guardians so desire.)

3. Discussion of the _____ of _____
property described as follows: _____

(Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency.)

4. Collective bargaining negotiations with _____

(Discussion of labor contracts and proposals and meetings with negotiation team.)

5. Consultation with the Corporation Counsel (legal counsel) concerning its and liabilities of Bd of Appeals and individual members concerning alleged appeal of use of 141 Ashmont St.

(Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's counsel to his or her client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the state, municipality or other public agency or person at a substantial disadvantage.)

6. Discussion of confidential records (Specify) _____

(Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.)

David Louis Corp. Counsel
(Signature and Title of Recording Official)

Date: 11/12/81

Yeas 7 Nays 0

Yeas needed .6 X 7 = 5

GIVE TO CITY CLERK FOR RETENTION

EXECUTIVE SESSION MOTION

I move that the Board of Appeals go into executive session to discuss the following matters as permitted by Title 1 MRSA Sections 401 et. seq.:

(SPECIFY AS TO THE PRECISE NATURE OF EACH ITEM TO BE DISCUSSED: CROSS-HATCH THOSE ITEMS NOT TO BE DISCUSSED. LANGUAGE FROM 1 MRSA §405 PROVIDED IN PARENTHESIS FOR YOUR INFORMATION. NO MATTER OTHER THAN THAT LISTED MAY BE DISCUSSED IN EXECUTIVE SESSION.)

1. Discussion of personnel matters as follows: personal liability of board members.

(Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation, or dismissal of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated shall be permitted to be present at an executive session if he so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against him be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.)

2. Discussion of the suspension or expulsion of _____
(Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, provided that:

- (1) The student and legal counsel and, if the student be a minor, the student's parents or legal guardians shall be permitted to be present at an executive session if the student, parents or guardians so desire.)

3. Discussion of the _____ of _____
property described as follows: _____

(Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency.)

4. Collective bargaining negotiations with _____

(Discussion of labor contracts and proposals and meetings with negotiation team.)

5. Consultation with the Corporation Counsel (legal counsel) concerning its and liabilities of Bd of Appeals and individual members concerning alleged appeal of use of 19.1 Amendment St.

(Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's counsel to his or her client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the state, municipality or other public agency or person at a substantial disadvantage.)

6. Discussion of confidential records (Specify) _____

(Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.)

David Lurie Corp. Counsel
(Signature and Title of Recording Official)

Date: 11/12/81

Yeas 7 Nays 0
Yeas needed .6 X 7 = 5

GIVE TO CITY CLERK FOR RETENTION

MAINE MUNICIPAL ASSOCIATION

Legal Services
35 Community Drive
Augusta, Maine 04330-9411

CHARLES M. JACKSON
WILLIAM W. LIVENGOOD
REBECCA I. WARREN
GARY C. WOOD

Telephone (207) 623-8420

January 20, 1982

Gail D. Zayac, Chairwoman
Portland Zoning Board of Appeals
73 Lincoln Street
Portland, ME 04103

Re: 191 Ashmont Street

Dear Gail:

I apologize for not responding sooner to your letter which we received on January 5, 1982. As I explained to you over the telephone, because the Board had been advised previously by Corporation Counsel's office on this matter, I had a duty under the Code of Professional Responsibility to contact Mr. Flewelling and discuss it with him first. The Code, which is adopted by the Maine Supreme Judicial Court to govern the professional conduct of lawyers in this State, prohibits one attorney from providing advice to the client of another attorney on the same matter without that attorney's consent, unless that attorney's relationship with the client already has been terminated. Mr. Flewelling forwarded to me a copy of all of the documents in his file pertaining to the 191 Ashmont Street appeal. Having reviewed those materials, I would offer the following advice to the Board.

Sections 602.24.A(1) and 602.24.B(1) of the City's Zoning Ordinance state that the Board of Appeals has the authority "to hear and decide appeals from, and review orders, decisions, determinations, or interpretations made by the Building and Inspection Services Department" (emphasis added). Section 602.24.B(2)(a) requires that "any person affected by a decision of the Building and Inspection Services Department" must file "a notice of appeal specifying the grounds thereof" with the Building and Inspection Services Department "within 30 days of the action complained of."

The words "person affected" in Section 602.24.B(2)(a) would appear to have essentially the same meaning as "person aggrieved" for the purpose of determining who has standing to file an appeal. The Maine Law Court in Matter of Lappie, 377 A.2d 441 (Me., 1977) held that a "person aggrieved" is any person who can "demonstrate a particularized injury" resulting from the decision being appealed. While it is probably easiest for the owner of abutting property to show that he or she will suffer special harm from the action at issue, e.g., Pride's Corner Concerned Citizens Association v. Westbrook Board of Zoning Appeals, 398 A.2d 415 (Me., 1979), standing as a "person aggrieved" is not necessarily limited to the owner of abutting property.