

610-612 WASHINGTON AVENUE

SECTION

SECTION

SECTION

December 5, 1977

cc: Bob Moulton
22 Mabel St.

Mr. Myron Nichols
606 Washington Avenue
Portland, Maine

RE: 60E-612 Washington Avenue

Dear Mr. Nichols:

Following is the decision of the Board of Appeals regarding your petition to permit construction of a one story 16'x22' addition on rear of existing building at the above named location. Please note that your appeal was granted.

Very truly yours,

Malcolm G. Ward
Plan Examiner

MGW/r

606-612 Washington Avenue

November 7, 1977

Mr. Myron Nichols
606 Washington Avenue
Portland, Maine

cc: Bob Moulton
122 Mabel St.

Dear Mr. Nichols:

A Building Permit to construct a one story 16' x 22' addition on the rear of existing building at the above named location is not issuable under the zoning ordinance in the R-5 Residential Zone as this addition would constitute an increase in the existing Non-Conforming Use (retail store, Section 602.17.B).

We understand that you would like to exercise your appeal rights in this matter. Accordingly, you or your authorized representative should come to this office, Room 113, City Hall, to file the appeal on forms which are available here. A fee of \$15.00 for a Non-Conforming Use Appeal shall be paid at this office at the time the appeal is filed. If fee has been paid, and appeal filed prior to this letter, then consider this letter as a matter of formality. Section 602.24.E.

Very truly yours,

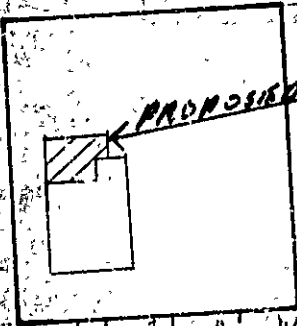
Malcolm G. Ward
Plan Examiner

HGW/r

606 - 612 WASHINGTON AVE. #1-36 11/16/77 [unclear]

ILSLEY ST.

BRADDOCK ST.



PROPOSED 15' X 23' ADDITION



602 604 606 608 610 612 614

WASHINGTON AVE.

Mrs. Myron Hodsdon

Portland, Maine
04103

904 Baxter Blvd.

Mr. Eskilson -

Dear Sir,

I am opposed to altering the zoning law in order to erect a four-family apartment house between 904 and 922 Baxter Blvd. A ranch type or even a duplex would be desirable but not four families.

The neighbors all have the same opinion regarding the change.

We were at the City Hall Nov 17th when the hearing was to be held and were disappointed at the postponement.

I was advised to write to you so I'm following that advice.

Sincerely

Robert K Hodsdon

Mr. Earle Eskilson
Building Inspector
Room 113
389 Congress Street
Portland, Maine 04111

Dear Sir:

I understand that on Dec. 1, 1977, you are going to hear the appeal of LaRosa's Store (Mr. Myron Nicklos) at 606 Washington Ave., Portland, Maine, to add on 20-ft. to his store at that address. As I will not be in town on Dec. 1, I am writing to you to oppose this appeal, as it will blind out our view, and sunlight. Also, my wife has multiple-bursitis and needs the sunlight.

I hope this appeal will be rescinded by you, otherwise I will be forced to turn the matter over to my lawyer.

Sincerely yours,

*Mr. Earl H. Fenderson
604 Washington Ave
Portland, Maine*

November 21, 1977

Building Inspector,
Room 209, City Hall,
389 Congress St.,
Portland, Maine.

Att: Appeal Board,

We, the undersigned, oppose to the appeal of Myron Nichols,
606 Washington Ave, Portland, Maine. To permit the construction of a one
story 16' x 22' addition on the rear of existing building.

<i>Carl H. Lundstrom</i>	<i>604 Washington Ave</i>	<i>Portland ME 04103</i>
<i>Josephine Bagnoli</i>	<i>589 Washington Ave</i>	<i>" "</i>
<i>in N.Y. City</i>	<i>592 Washington</i>	<i>" "</i>
<i>Nancy Scola</i>	<i>593 Washington</i>	<i>" "</i>
<i>not to me</i>	<i>68 Sibley St</i>	<i>" "</i>
<i>Vincent Lucariello</i>	<i>74 Sibley St</i>	<i>" "</i>
<i>Philomena Anderson</i>	<i>64 Sibley St</i>	<i>" "</i>
<i>Emilio di Majo</i>	<i>75 Sibley St</i>	<i>" "</i>

CITY OF PORTLAND, MAINE
IN THE BOARD OF APPEALS

All persons interested either for or against this Nonconforming Use Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday, December 1, 1977 at 3:30 p.m. This notice of required public hearing has been sent to the owners of property within 500 feet of the property in question as required by Ordinance.

Myron Nichols, owner of property at 606-612 Washington Avenue, under the provisions of Section 602.24 E of the Zoning Ordinance of the City of Portland hereby respectfully petitions the Board of Appeals to permit: the construction of a one story 16'x22' addition on the rear of existing building at the above named location. This permit is not issuable under the Zoning Ordinance in the R-5, Residential Zone as this addition would constitute an increase in the existing Nonconforming use (retail store) Section 602.17.B.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 602.24 E (1) of the Zoning Ordinance have been met.

Jacqueline Cohen
Secretary

Mr. Earl Eskilson
Building Inspector
Room 113
389 Congress Street
Portland, Maine 04111

Dear Sir:

I understand that on Dec. 1, 1977, you are going to hear the appeal of LaRosa's Store (Mr. Myron Nicklos) at 606 Washington Ave., Portland, Maine, to add on 20-ft. to his store at that address. As I will not be in town on Dec. 1, I am writing to you to oppose this appeal, as it will blind out our view, and sunlight. Also, my wife has multiple-butisitis and needs the sunlight.

I hope this appeal will be rescinded by you, otherwise I will be forced to turn the matter over to my lawyer.

Sincerely yours,

Carl H. Jendrusin
604 Washington Ave.
Portland Maine 04103

11-15-77

CITY OF PORTLAND, MAINE
IN THE BOARD OF APPEALS

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LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 602.24 E (1) of the Zoning Ordinance have been met.

Jacqueline Cohen
Secretary

Pr. 11/9/77

CITY OF PORTLAND, MAINE
IN THE BOARD OF APPEALS

APPLICATION FOR A NONCONFORMING USE APPEAL

Mkt.)
Myron Nichols (LaRosa's), owner of property at 606-612 Washington Avenue

under the provis. ns of Section 602.24 E of the Zoning Ordinance of the City of
Portland, hereby respectfully petitions the Board of Appeals to permit: Construction of a
one story 16' x 22' addition on rear of existing building is not issuable
under the zoning ordinance in the R-5 Residential Zone as this addition would
constitute an increase in the existing Non-Conforming Use (retail store)
Section 602.17.E.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds
that the conditions imposed by Section 602.24 E(1) of the Zoning Ordinance have been
met. (See reverse side hereof for said conditions.)

Site Plan approval (is/is not) required by the Site Plan Ordinance. If site plan approval
is required, a preliminary or final site plan is attached hereto as Exhibit A.

Myron A. Nichols
APPELLANT

602.24 E Nonconforming Uses.

1. Authority.

The Board of Appeals may, subject to the procedures, standards and limitations set forth in Section 602.24 C (3)(b)(1) of this Ordinance, authorize such variances from the provisions of the following sections of this ordinance relating to nonconforming uses:

- (a) The subject lot or parcel is exceptional as compared to other lots or parcels subject to the same provision by reason of unique physical condition, including irregularity, narrowness, shallowness, or substandard or marginal size; exceptional topographical features; and other extraordinary physical conditions peculiar to and inherent in the lot or parcel in question, which amount to more than a mere inconvenience to the owner.
- (b) The aforesaid unique physical condition existed at the time of the enactment of the provision from which a variance is sought or were created by natural forces or were the result of governmental action.
- (c) The carrying-out of the strict letter of the provision from which a variance is sought would deprive the owner of the lot or parcel in question of substantial use and enjoyment of this property in the manner commonly enjoyed by owners of other lots or parcels subject to the same provision.
- (d) The hardship is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots or parcels subject to the same provision.
- (e) Property in the same zone or neighborhood will not be adversely affected by the granting of the variance and the granting of the variance will not create conditions which would be detrimental to the public health or safety.

606-612 Washington Ave. - Myron Nichols (L. Rosa's Mkt)

167-D-1 - Peter & Janney Casazza
14 Johansen St.

167-D-2 - Clement L. & Maria D. Scala
107 Ellsley St.

167-D-3 - William R. & Estelle C. Prussel
244 Middle Rd., Falmouth, Me.

167-D-4 } Andrew P. & Patricia D. Dumas
167-D-5 } 644 Washington Ave. 04103

167-D-6 - John W. Di Pietro
656 Washington Ave. 04103

167-D-7 - Peter A. & Margaret A. Whitman
10 Johansen St. 04103

167-C-9 } James V. ^{or Mary F.} Pellegrino
167-C-10 } 104 Ellsley St.

167-C-18 - George P. Webster, Inc.
389 Congress St. 04103

167-C-7, 8, (3) 11, 12 - David J. & Dolly C. Jensen
36 Johansen St.

167-C-6 - John D. & Marie T. Boutwell
115 Grand St. 04103

167-E-4, 2, 3, 4, 5, 6, 20, 21 City of P P H A 2

167-E-9, 10 - Thomas J. & Doris E. Kiley
33 W Presumpscot St. ✓

167-E-11 - Robert R. & Helene S. Anderson
64 Ellsley St. 04103 ✓

167-E-12 - Robert W. & Marie Y. Pickett
68 Ellsley St. 04103 ✓

167-E-13 - Nancy L. & Stephen T. Dinismor
72 Ellsley St. 04103 ✓

167-E-14 - Vincent Jacariello
74 Ellsley St. 04103 ✓

167-E-15, 16 - David & Diane M. Pike
80 Ellsley St. 04103 ✓

167-E-17 - Charles H. & Katherine L. Duse
37 Hodgins St. 04103 ✓

167-E-18 - Florence M. Kluchnick
90 Ellsley St. 04101 ✓

167-E-19 - Charles F. Nicolai
94 Ellsley St. ✓

167-F-2 - Helena F. McKeough & Alberta C. Martin
89 Ellsley St. ✓

167-F-3, 4 - Norman L. & Regina E. Slack
83 Ellsley St. 04103 ✓

167-F-5, 14, 13, 15 - Washington Ave. Methodist Church
618 Washington Ave. ✓

117-F-6,7 - Emilio & Clorinda

Dimajo - 75 Ellsley St.

167-F-8,9 - Elizabeth Simpson

Box 201 - Danport 04032

167-F-10 - Earl H. & Arlene M. Henderson
604 Washington Ave.

167-F-11,12 - Peter & Gerald
13 Oakley St. ^{Person's Own}

167-F-16 - Charles R. & Mary A. Mastia
626 Washington Ave.

167-F-17 - Richard D. & Rita M. Ross

28 Gray Rd. 1 Dal, Me. 04105

167-F-18 - 1 - Jennie M. & Peter F. Vachon

634 Wash. Ave.

167-F-19 - William C. & LeAnn Downs

93 Ellsley St. 04103

166-B-1,2,3,4,5,6,7,17,18,19,20,21

P.H.A. City of B.

166-B-12,11 - Joseph & Lucy Richards

33 Randall St.

166-B-13 - David & Pauline Pottle

25 Randall St.

166-B-14,15,16 City of B. P.H.A.

225 Douglas St.

~~166-B-10~~

166-C-1, 16 - William A. Vacciano
592 Wash. Ave. 04103 ✓

166-C-2, 3, 4, 15, 14 - andrea & Andrew Santinello
Deforte - 666 Allen Ave. 04103 ✓

166-C-6 - Gilbert L. Frye
31 Ellsley St. 04103 -

166-C-7, 8 - Anna P. & Felicit R. Ferrante
103 Sheridan St. 04101 ✓

166-C-9, 10 - Doris E. & Harold E. Murray, Jr.
566 Wash. Ave. 04103 ✓

~~166-C-17~~

166-C-11 - Juanita M. & Ronald M. Boucher
570 Wash. Ave. 04103 ✓

166-C-12 - Gerald A. Snider
34 Hale St. 04103 ✓

166-C-13 - Mary Joan & William H. Winslow
Highland Ave., Scarborough, Me. ✓

428-L-1 - Jessie M. Small
605 Wash. Ave. ✓

428-L-2 - Donna M. Desimon
8 Presumpscot St. -

428-L-3 - John T. Whitehouse
22 Presumpscot St. 04103 -

428-L-4, 5 - Caroline B. Declair
12 Savoy St. ✓

~~428-L-5~~

~~428-L-5~~

428-L-6,7,8 - Grace M. Rutt
20 Savoy St. 04103 ✓

428-L-9 - R. Reginald M. Hunnewell
34 Savoy St. 04103 ✓

~~428-L-10~~

428-L-11 - Thomas C. Jordan
38 Savoy St ✓

428-L-12 - Cynthia W. & W. Allen Adams
42 Savoy St. 04103 ✓

428-L-13 - Adrienne M. & Harry A. Poley
649 Wash. Ave. 04103

428-L-14 - John H. Hutchins 04103
645 Wash. Ave. →

428-L-15 - Elmor W. & Ruth K. Wolford
643 Wash. Ave. 04103

428-L-16 - George H. ^{Mary J.} Mellin
639 Wash. Ave. 04103

428-L-17 - Lawrence N. ^{Dores J.} Des Roches
635 Wash. Ave.

428-L-18 - Frank and Bridget J. Tirabassi
629 Wash. Ave.

428-L-19 - Laura Di Biasi
8 Wash. Ave.

428-L-20 - Mary N. Stubbert
623 Wash. ave.

428-L-21 - Jessie M. Small (See 428-L-1)

428-L-22, 23 - Evelyn J. Keith
613 Wash. ave. 04103

428-K-1 - Nicola & Caroline M. Albano
38 Presumpscot St. 04103

428-K-2-18 - Nicola Albano (Same as above)

428-K-3, 4 - Denfige Pompeo
24 Presumpscot St.

428-K-5 - Josie D. Jenkin
222 Sherwood St.

~~428-K-6~~

~~428-K-7, 8~~

~~428-K-9, 10~~

~~428-K-11~~

~~428-K-12~~

~~428-K-13~~

428-K-14 - Salvatore A. & Tomassina Mergelli ✓
236 Sherwood St.

15 - Domenica & Giovanni Cora ✓
444 Cypress St. 04102

16, 17 - Lucia B. & Vincenzo Cassese ✓
19 Savoy St. 04103

^{see} 428-C-10 - Beatrice M. & Fottel L. Peterson ✓
110 Pembroke St.

~~428-C-9~~ - Post Hans Anth

428-C-7 - C. Gene Wells ✓
142 High St. 04101

428-B-14 - Nancy & Serenna Siala ✓
593 Wash. ave. 04103

428-B-15 - Josephine Dagnoli ✓
589 Wash. ave. 04103

428-B-16 - Corlene B. & Raymond F. Merygo ✓
585 Wash. ave. 04103

428-B-17 - John H. Duffy ✓
700 Boston ave. 04102

428-B-18 - Leon M. & Marion L. Easler ✓
577 Wash. ave.

428-B-19 - Annal F. Swankholm ✓
389 Congress St. 04101

428-B-20, 21 - Ada - Lee Quirk ✓
9 Beaumont St. 04103

428-B-23, 24 - Richard + Nancy Lee Harris

182 Sherwood St. 04103 ✓

428-B-25, 26, 27 - Terry J. + Nancy J. Mc Govern

174 Sherwood St. 04103 ✓

~~428-B-28~~

~~428-B-29~~

428-C-8-?

could not find

428-C-9-

Post Hours. anth.

O.K.

~~167-g-20~~

~~167-g-21, 22~~

~~167-g-24~~

~~167-g-25~~

CITY OF PORTLAND, MAINE
IN THE BOARD OF APPEALS

A NONCONFORMING USE APPEAL

Findings of Fact

The applicant is Myron Nichols (LaRosa's Mkt.) and he is interested in the property located at 606-612 Washington Avenue as store. The owner of the property is same as above and his address is Same. The property is located in a R-5 Zone. The present use of the property is Store.

The applicant respectfully petitions the Board of Appeals for a variance from the provision of Section 602.17.B of the Ordinance to permit Construction of a one story 16' x 22' addition on rear of existing building not issuable under the zoning ordinance in the R-5 Residential Zone as this addition would constitute an increase in the existing Non-Conforming Use (retail store, Section 602.17.B.)

Further Findings of Fact

Appearances

The names and addresses of those appearing in support of the application are: My Myerson, Nichols & his son

and the names and addresses of those appearing in opposition to the application are:

None (Petition with 6 signatures) + Letter from
Mr Carl Fenderson - opposing use

Exhibits

The documentary evidence presented to the Board, including, but not by way of limitation, plans, specification, photographs, etc. consisted of the following: Overlay - Photo - Sanborn Map - Plans

REASONS FOR DECISIONS

The parcel of land in question (~~is~~ is not) exceptional, compared to other lots or parcels subject to the same provision, by reasons of its physical characteristics which may be described as follows: _____

and also by reason of the following topographical features: _____

and they (do/do not) amount to more than a mere inconvenience to the owner.

The aforesaid physical conditions (strike out inapplicable references).

- (a) existed at the time of the enactment of the provision for which a variance is sought; or
- (b) were created by natural forces; or
- (c) were a result of governmental action.

The carrying out of the strict letter of the provision from which a variance is sought (would/would not) deprive the applicant of the substantial use or enjoyment of the property in the manner commonly enjoyed by owners of other lots or parcels subject to the same provision, because of the following: Would

deprive him of use of property

The hardship (~~is~~ is not) merely the inability of the applicant to enjoy some special privilege or additional right not available to owners or occupants of other lots or parcels subject to the same provision, as evidenced by: _____

Property in the same zone or neighborhood (~~will~~ will not) be adversely affected by the granting of the variance and the granting of the variance (~~will~~ will not) create conditions which would be detrimental to the public health or safety, because

Reul. Plan be will be constructed.

SPECIFIC RELIEF GRANTED

At a public hearing held on Dec 1, 1977, the Board of Appeals find that all of the conditions required by the Ordinance (do, to not) exist with respect to this property and that a nonconforming use variance should _____ be granted in this case.

It is therefore determined that a variance from the provisions of the Zoning Ordinance should _____ be granted in this case.

Joqueline Cohen

Eric D. Snow

Merrill S. Sides

W. C. Skelton

James O. Malley

PRESUMPSCOT STREET

CONSTANCEY L. PER...

R-5 RESIDENCE ZONE

BUILT 1954
TREN IN
LOCAL
BUSINESS
ZONE

PURCHASED
5/8/60

STORE

50' 604 606 608 610 612 614 616 618
100' 100' 100' 100'

WASHINGTON AVENUE

606 608

610-612 Washington Avenue

March 12, 1973

Constance M. Pierobello
606 Washington Avenue

Dear Mrs. Pierobello:

We are unable to issue you a certificate of occupancy, or do you have the right to go before the Board of Appeals for a variance appeal to allow parking at the above named location in connection with your retail store located on the adjoining lot at 606-608 Washington Avenue.

This property is located in an R-5 Residential Zone where the retail store is an unconforming use, which is allowed to continue because it was in existence on June 5, 1957 when zoning regulations now in force became effective. Prior to that time the lot on which the store is located, but not the vacant lot in question, was in a local business zone where retail store use was allowed as it was in 1954 when the building was erected. The Board of Appeals does not have the right to authorize your permit for a new business on this lot as this use would be contrary to the intent of the zoning ordinance as set forth in Section 602.1. (Sec. 602.24.C.4) This vacant lot was not purchased until 1961, it was not therefore part of the property on which the store is located at the time that building became non-conforming and hence cannot claim non-conforming rights. For this reason the vacant lot must be treated as a separate piece of property in applying the present zoning regulation.

Inasmuch as in the R-5 Residential Zone where the property is located, off-street parking is allowable only as accessory to a lawful use on that same lot and the store use is neither on the same lot or is it the one which is allowable in this zone, it seems clear that the use of the lot in question for parking accessory to the store is not permissible under the Zoning Ordinance.

Very truly yours,

A. Allan Soule
Assistant Director

AAS:m

610-612

Washington Ave

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Bob Donovan, Corporation Counsel
DATE: 3-6-73
FROM: A. Allan Soule, Assistant Director Building & Inspection Services
SUBJECT: Appeal for a non-conforming accessory use to business in a Residential zone

We have been asked on this date to allow accessory parking to an existing non-conforming retail store at the above named location. We feel that we cannot under the circumstances allow the owner to go before the Board of Appeals to ask for this exception from the Zoning Ordinance because of the reasons stated in paragraph 3 of a letter written on March 8, 1962 by then, the former Building Inspector, Albert Sears. Will you let me know if the Corporation Counsel still holds to this same reason as stated on that date by this department?

A. Allan Soule, Assistant Director
Building & Inspection Services

AAS:m

WILLIAM I. SABIN
ATTORNEY AT LAW
SPRING STREET
WILLIAMSTOWN, MASS
—
GLLENVIEW B-3244

March 12, 1962

Albert J. Sears
Building Inspector Director
City Hall
Portland, Maine

Dear Mr. Sears:

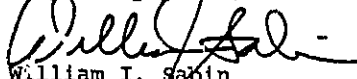
This is to acknowledge receipt of your letter of March 8th regarding the property on Washington Avenue in your city.

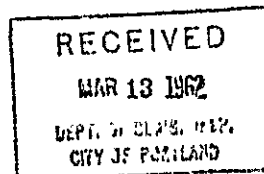
I want to take this opportunity to thank you for your thorough information regarding the applicable provisions of the zoning laws pertaining to this property.

I have this date written to the city clerk for a copy of the zoning ordinance so that I may be able to explain the situation to my client.

Thank you again, and if there is any information I desire I shall be in touch with you.

Very truly yours,


William I. Sabin
WIS:GED



Inquiry-610-612 Washington Ave.

March 8, 1962

William I. Sabin, Esq.
Spring Street
Williamstown, Mass.

cc to: Corporation Counsel

Dear Mr. Sabin:

Your inquiry concerning use under the Zoning Ordinance of the vacant lot at the above named location in connection with the retail store located on the adjoining lot at 606-608 Washington Avenue in this City has been handed to me for answering.

This property is located in an R-5 Residential Zone where the retail store is a non-conforming use which is allowed to continue because it was in existence on June 5, 1957 when zoning regulations now in force became effective. Prior to that time the lot on which the store is located, but not the vacant lot in question, was in a Local Business Zone where a retail store use was allowable, as it was in 1954 when the building was erected.

Under Section 17-B of the Zoning Ordinance the extension of a lawful non-conforming use beyond the limits it occupied when it became non-conforming is not allowable. Since the vacant lot in question was not purchased until 1961, it was not a part of the property on which the store is located at the time that building became non-conforming and hence can claim no non-conforming rights. For this reason the vacant lot must be treated as a separate piece of property in applying present zoning regulations even though it were to be used for off-street parking accessory to the store on the adjoining lot.

Inasmuch as in the R-5 Residence Zone where the property is located, off-street parking is allowable only as accessory to a lawful use on the same lot and the store use is neither on the same lot nor is it one which is allowable in this zone, it seems clear that use of the lot in question for parking accessory to the store is not permissible under the Zoning Ordinance. As regards appeal rights in this matter, Section 24-C of the Ordinance provides that the Board of Appeals shall not have the power to grant any variance appeal to permit a new business use in a residential zone. Since accessory parking to the store would clearly be a business use, it appears that the appeal Board does not have jurisdiction to sustain an appeal in this instance.

If you have any further questions as to the application of the Zoning Ordinance to this situation, we will try to answer them upon request. A copy of the Zoning Ordinance may be obtained for \$2.00 at the office of the City Clerk.

Very truly yours,

Albert J. Sears
Building Inspection Director

AJS:m

*Put in file
at 610-612
Washington Ave*

*Vacant lot 610-612 Washington
006-606*

Perrobello

WILLIAM I. SABIN
ATTORNEY AT LAW
SPRING STREET
WILLIAMSTOWN, MASS
—
GLENVIEW B-3244

March 2, 1962

City Clerk
Portland, Maine

Dear Sir:

My client recently purchased a vacant lot adjacent to her commercial property at 606 Washington Avenue in your city.

She now wishes to obtain a variance as to this vacant lot so that she may use the same in conjunction with your commercial property.

Will you kindly advise whether the property at 606 is zoned commercially or whether it is an a non-conforming use.

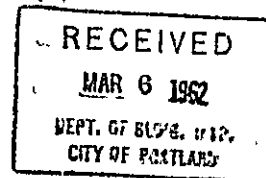
I would also appreciate a copy of the zoning by-laws and any information dealing with obtaining a variance or an extension of a non-conforming use.

If an application is required will you kindly forward the same and advise the filing fee, if any. My client does not wish to erect a building on the lot but only to use the same for a driveway and/or parking.

If another department handles this matter, I would appreciate your referring this letter to them.

Very truly yours,

William I. Sabin
William I. Sabin
WIS/dn



CITY OF PORTLAND, MAINE

Department of Building Inspection

610-612 Washington Avenue

March 12, 1973

Constance M. Pierobello
606 Washington Avenue

Dear Mrs. Pierobello:

We are unable to issue you a certificate of occupancy, or do you have the right to go before the Board of Appeals for a variance appeal to allow parking at the above named location in connection with your retail store located on the adjoining lot at 606-608 Washington Avenue.

This property is located in an R-5 Residential Zone where the retail store is an unconforming use, which is allowed to continue because it was in existence on June 5, 1957 when zoning regulations now in force became effective. Prior to that time the lot on which the store is located, but not the vacant lot in question, was in a local business zone where retail store use was allowed as it was in 1954 when the building was erected. The Board of Appeals does not have the right to authorize your permit for a new business on this lot as this use would be contrary to the intent of the zoning ordinance as set forth in Section 602.1. (Sec.602.24.C.4) This vacant lot was not purchased until 1961, it was not therefore part of the property on which the store is located at the time that building became non-conforming and hence cannot claim no conforming rights. For this reason the vacant lot must be treated as a separate piece of property in applying the present zoning regulation.

Inasmuch as in the R-5 Residential Zone where the property is located, off-street parking is allowable only as accessory to a lawful use on that same lot and the store use is neither on the same lot or is it the one which is allowable in this zone, it seems clear that the use of the lot in question for parking accessory to the store is not permissible under the Zoning Ordinance.

Very truly yours,

A. Allan Soule
Assistant Director

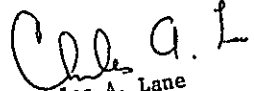
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CITY OF PORTLAND, MAINE
MEMORANDUM

TO: A. Allan Soule, Assistant Director, Building & Inspection
FROM: Charles A. Lane, Assistant Corporation Counsel
SUBJECT: 610-612 Washington Avenue
Accessory Parking for Existing Non-conforming Use

DATE: 3/8/73

This is in response to your recent memorandum. As I understand it the proponent wishes to use a vacant lot adjacent to an existing non-conforming retail store to provide parking for the store's use. In my opinion, this would be extending a business use in a residential zone. Pursuant to Section 602.24.C.(4) of the Zoning Ordinance, the Board does not have authority to permit a new business use in a residential zone.


Charles A. Lane
Assistant Corporation Counsel

CAL:kf