

CITY OF PORTLAND, MAINE  
IN THE BOARD OF APPEALS

SPACE AND BULK VARIANCE (OTHER THAN FOR DWELLING UNIT CONVERSIONS)

Paul F. Munroe, owner of property at 41-45 Mallily Rd.

under the provisions of Section 602.24 C of the Zoning Ordinance of the City of

Portland, hereby respectfully petitions the Board of Appeals to permit:

construction of a one story 29'x24' attached garage on the right side of existing dwelling at the above location which is not issuable under the Zoning Ordinance because the distance between the proposed garage and the side lot line will be about 6' rather than the 8' min. required by Sec. 602.4.B.2 of the Ordinance applying to the R-3, Residential Zone in which this property is located.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds ... that the conditions imposed by Section 602.24 C(3)(b)(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.

Paul F. Munroe  
APPELLANT

602.24 C(3)(b)(1) Space and Bulk Variances other than for Dwelling Unit Conversions:

- (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.

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IN THE BOARD OF APPEALS

All persons interested either for or against this Space and Bulk Variance Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Wednesday June 1, 1977 at 3:30 p.m. The notice of required public hearing has been sent to the owners of property directly abutting, and directly across a street or alley from the subject property as required by Ordinance.

Paul F. Munroe, owner of property at 41-45 Mallily Rd. under the provisions of Section 602.24.C. of the Zoning Ordinance of the City of Portland, hereby respectfully petitions the Board of Appeals to permit: construction of a one story 29'x24' attached garage on the right side of existing dwelling at the above location which is not issuable under the Zoning Ordinance because the distance between the proposed garage and the side lot line will be about 6' rather than the 8' min. required by Sec. 602.4.B.2 of the Ordinance applying to the R-3, Residential Zone in which this property is located.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 602.24 C(3)(b)(1) of the Zoning Ordinance have been met.

Jacqueline Cohen  
Secretary

Roaks Seven Acre Greenhouses, Inc. - 963 Washington Ave.  
Warren B & Eleanor R Lowell - 49 Mallily Rd.  
Chris I. & Frances C. Olsen - 37 Mallily Rd.  
Pauline F & Roger C. Strout - 48 Mallily Rd.  
Herbert H. & Maureen McBride - 38 Mallily Rd. - returned 5-23-77

CITY OF PORTLAND, MAINE  
BOARD OF APPEALS  
SPACE AND BULK VARIANCE APPEAL

I. Findings of Fact

A. Applicant Paul F. Munroe

B. Property Location 41-45 Malilly Rd.

C. Applicant's Interest in Property:  
 Owner  
 Tenant  
 Other

D. Property Owner Paul F. Munroe

E. Owner's Address 45 Malilly Rd.

F. Zone (Circle One):

- R-1 R-2 R-3 R-5 R-6  
R-P B-1 B-2 B-3 A-B  
I-P I-1 I-2 I-2b I-3 I-3b  
RPZ

G. Site Plan Approval Required no

H. Present Use of Property dwelling

I. Section(s) to Which Variance Related 602.4.B.2

J. Reasons Why Permit Cannot be Issued distance between proposed garage and the side lot line will be about 6' rather than the 8' min. required by Sec. 602.4.B.2 of the Ordinance applying to the R-3 Residential Zone in which this property is located.

K. Requested Variance Would Permit 29'x24' attached garage

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\_\_\_\_\_

L. Notice Sent to \_\_\_\_\_ Adjacent Property Owners

II. Appearances

A. Those Advocating Variance

PAUL F. MONROE  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Those Opposing Variance

NONE  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attachments, As Necessary)

III. Exhibits (Any documents, photos, plans, further findings of fact, etc. presented to the Board as part of its records)

PHOTO, SANSHED MAP, SKETCH OF PROPOSED CONSTRUCTION  
ADJACENT TO SITE

IV. Reasons for Decisions - Undue Hardship (The following checklist relates with the Board of Appeals hardship definitions for site and bulk variances as contained in Section 602.24C 3.b.(1) (a) through (e).

A. The parcel is exceptional due to physical characteristics or topographic features which amount to more than a mere inconvenience [Section 602.24C 3.b.(1) (a)]

- ( ) Yes/Agreement with statement
- (x) No/Disagreement with statement

Reasons \_\_\_\_\_  
\_\_\_\_\_

B. If yes, the unique physical conditions: (Check One) [Sec 602.24C 3.b.(1) (b)]

- ( ) existed at the time of the enactment of the provision from which a variance is sought; or
- ( ) were caused by natural forces; or
- ( ) were the result of governmental action

C. Pertinent ordinance provision deprives owner of substantial use or enjoyment of property in the manner commonly enjoyed by owners of property subject to the same provisions [Sec. 602.24C 3.b.(1) (c)]

Yes/Agreement with statement

No/Disagreement with statement

Reasons \_\_\_\_\_

D. As evidenced by affirmative answers to either IV. A. or IV. C. above, the variance will not create a special privilege for the applicant. [Sec. 602.24C 3.b.(1) (d)]

Yes/Agreement with statement

No/Disagreement with statement

Reasons \_\_\_\_\_

E. The variance will not adversely affect neighborhood property in the same zone and will not be detrimental to the general public health and safety [Sec. 602.24C 3. b.(1) (e)]

Yes/Agreement with statement

No/Disagreement with statement

Reasons \_\_\_\_\_

V. Specific Relief Granted

After a public hearing held on JUNE 1, 1977, the Board of Appeals finds that: (Check One)

Approval - All of the conditions required by Sec. 602.24C 3.b.(1) exist with respect to this property, as evidenced by affirmative responses to all statements set forth in IV. A. through IV. E. above, and that a space and bulk variance be granted in this case.

Conditions of Approval (If Any) \_\_\_\_\_

( ) Disapproval - All conditions required by Sec. 602.24C 3.5.(1) do not exist with respect to this property, as evidenced by one or more negative responses to statements set forth in IV. A. through IV. E. above, and that a space and bulk variance should not be granted in this case.

VI. Signatures of Board

Walter Eskola Chairman  
James Mungler  
Robert W. Smith  
John D. ...  
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