

**CITY OF PORTLAND, MAINE**

ZONING BOARD OF APPEALS



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MICHAEL E. WESTORT  
DEWEY MARTIN

873 Brighton Avenue

All persons interested either for or against this Use Variance will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday evening, October 11, 1990 at 7:00 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 the Ordinance.

Mr. Dale Miles d/o/a Brighton Avenue Beverage & Redemption Center, and owner of the property at 873 Brighton Avenue in the B-1 Business Zone, under the provisions of Section 14-473(c)1 of the Zoning Ordinance of the City of Portland, Maine hereby respectfully petitions the Board of Appeals to permit him to install (4) Blender gasoline pumps with necessary accessories including ground storage tanks and a 46' X 46' canopy over the pumps.

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

John C. Knox  
Secretary

/el  
9/20/90

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



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Chairman  
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THOMAS F. JEWELL  
RAY M. JOHNSON  
MICHAEL E. WESTOAT  
DEWEY MARTIN

873 Brighton Avenue

September 19, 1990

Mr. Dale Miles  
Brighton Avenue Beverage & Redemption  
873 Brighton Avenue  
Portland, Maine 04102

Dear Mr. Miles:

This will acknowledge receipt of your request for a use variance for your property at 873 Brighton Avenue in the B-1 Business Zone, which is a former gasoline service station at the corner of Kent Street. As you know, the basis for granting a variance is contained in the criteria listed on the reverse side of the application form. Please review this criteria carefully so that you can explain the need for approval of your variance request. A copy of the criteria is enclosed with this letter.

If this variance is granted by the Board of Appeals, you will need to apply for a change of use and site plan review for your proposed gasoline service station and canopy for same.

This use variance request will be scheduled for review before the Board of Appeals on Thursday evening, October 11, 1990, at 7 P.M. in Room 209, City Hall, Portland, Maine. A copy of the agenda for that meeting will be sent to you as soon as copies become available for distribution.

Sincerely,

*Warren J. Turner*  
Warren J. Turner  
Administrative Assistant

Enclosure: Criteria for Variance Approval

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

Oct. 11, 1990

FINDINGS OF FACT  
ALL APPEALS

TYPE OF APPEAL ~~Special~~ Use Variance

1. Name of Applicant Dale Miles
2. Address of Applicant 873 Brighton Ave
3. Right of applicant to appeal.  
Owner
- Option to Purchase \_\_\_\_\_
4. Location of property under appeal ~~B-1~~ 873 Brighton Ave
5. Zone in which the property is located B-1
6. Present use of property Beverage Redemption Center
7. Proposed use if the appeal is granted.

Addition of gas pumps, tanks, hood etc.

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

John French  
Dale Miles

9. Names and addresses of those appearing in opposition to the application:

Joan Savage  
Richard Profenna

10. Listing of the documentary evidence presented to the Board (e.g. plans, photos, maps, etc.)

VARIANCES

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

1. Can the land yield a reasonable return (not the highest return) without the granting of a variance?

Yes 6 deny the appeal)  
No 0

Reasons (including evidence) baseline sales 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 6 (deny the appeal)

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

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

Yes 6 (deny the appeal)  
No 0

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

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

Yes 6 (deny the appeal)  
No 0

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

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

Yes \_\_\_\_\_  
No \_\_\_\_\_

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

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

Date of Publ. Hearing Oct. 11, 1990

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Votes in Favor - 0  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Votes Opposed - 6  
*[Handwritten signatures]*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Permit # \_\_\_\_\_ City of Portland **BUILDING PERMIT APPLICATION** Fee \$50.00 Zone \_\_\_\_\_ Map # \_\_\_\_\_ Lot# \_\_\_\_\_

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

Owner Dale Miles d/b/a Brighton Ave Beverage Phone # 772-6665  
 Address: 873 Brighton Ave. Portland, Maine

LOCATION OF CONSTRUCTION \_\_\_\_\_

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

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

Est. Construction Cost: \_\_\_\_\_ Proposed Use: add Gas sales canopy Zoning: \_\_\_\_\_

Past Use: redemption-beverage center

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

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

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

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

Explain Conversion to add to redemption ctr to gas sales with canopy

For Official Use Only	
Date <u>Sept. 17, 1990</u>	Subdivision: _____
Inside Fire Limits _____	Name _____
Blgd Code _____	Lot _____
Time Limit _____	Ownership: _____ Public _____
Estimated Cost _____	Private _____
Street Frontage Provided: _____	
Provided Setbacks: Front _____ Back _____ Side _____	
Review Required:	
Zoning Board Approval: Yes _____ No _____ Date: _____	
Planning Board Approval: Yes _____ No _____ Date: _____	
Conditional Use: _____ Variance _____ Site Plan _____ Subdivision _____	
Shoreland Zoning Yes _____ No _____ F _____ n Yes _____ No _____	
Special Exception _____	
Other (Explain) _____	

Foundation:

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

Floor:

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

Exterior Walls:

1. 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 \_\_\_\_\_

Ceiling:

1. Ceiling Joists Size: \_\_\_\_\_ Spacing \_\_\_\_\_  Not in District nor Landmark
2. Ceiling Strapping Size \_\_\_\_\_ Spacing \_\_\_\_\_  Does not require review.
3. Type Ceilings: \_\_\_\_\_  Requires Review.
4. Insulation Type \_\_\_\_\_ Size \_\_\_\_\_
5. Ceiling Height: \_\_\_\_\_

Roof:

1. Truss or Rafter Size \_\_\_\_\_ Span \_\_\_\_\_ Action: Approved
2. Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_  Approved with Conditions
3. Roof Covering Type \_\_\_\_\_

Chimneys:

- Type: \_\_\_\_\_ Number of Fire Places \_\_\_\_\_ Date: 9/17/90  
 Signature: [Signature]

Heating:

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

Electrical:

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

Plumbing:

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

Swimming Pools:

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

Permit Received By Latini

Signature of Applicant Dale Miles Date 9/17/90

Signature of CEO \_\_\_\_\_ Date \_\_\_\_\_

Inspection Dates \_\_\_\_\_



KAYON OIL Co.  
XTRA MART  
865 BRIGHTON AVE  
PORTLAND ME.  
OCTOBER 10, 1990

ZONING BOARD OF APPEALS  
ZONING OFFICE  
ROOM 315 PORTLAND CITY HALL  
PORTLAND, ME 04101

RE: RESPONSE TO DALE MILES REQUEST FOR VARIANCE

DEAR MEMBERS OF THE BOARD,

XTRA MART STRONGLY OPPOSES A ZONING USE VARIANCE, AS REQUESTED BY DALE MILES OF 873 BRIGHTON AVE

IN SECTION 14-162 OF THE CITY'S B-1 ZONE REGULATIONS, GASOLINE SALES ARE EXCLUDED, AND IN SECTION 14-163, CONDITIONAL USES, GASOLINE SALES ARE NOT LISTED

XTRA MART INSTALLED GASOLINE PUMPS WHEN THIS WAS A PERMITTED USE, AND KNOWING THAT ONE GASOLINE LOCATION WOULD NOT CREATE ANY CONGESTION OR HAZZARD TO THE MOTORING PUBLIC.

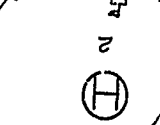
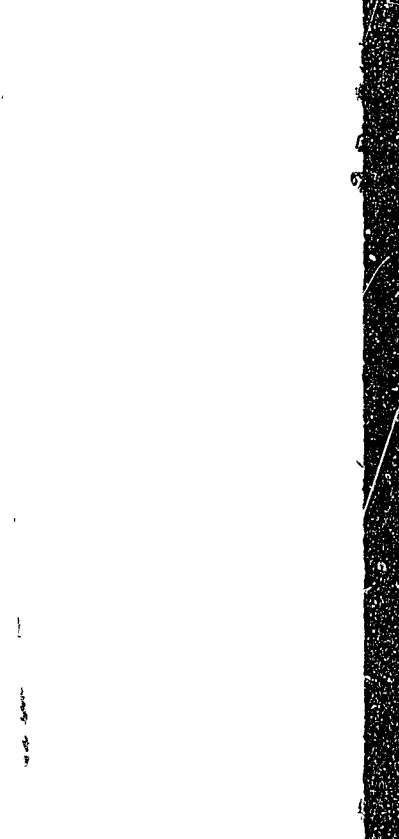
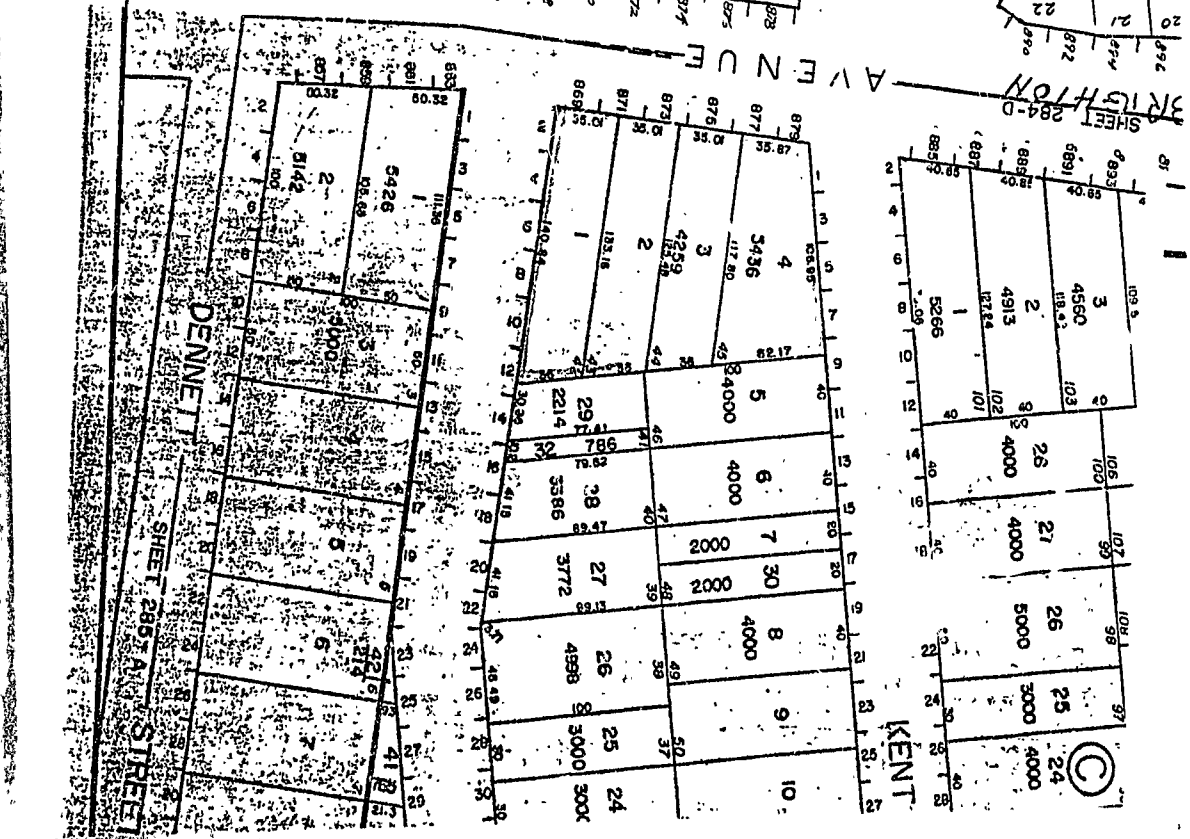
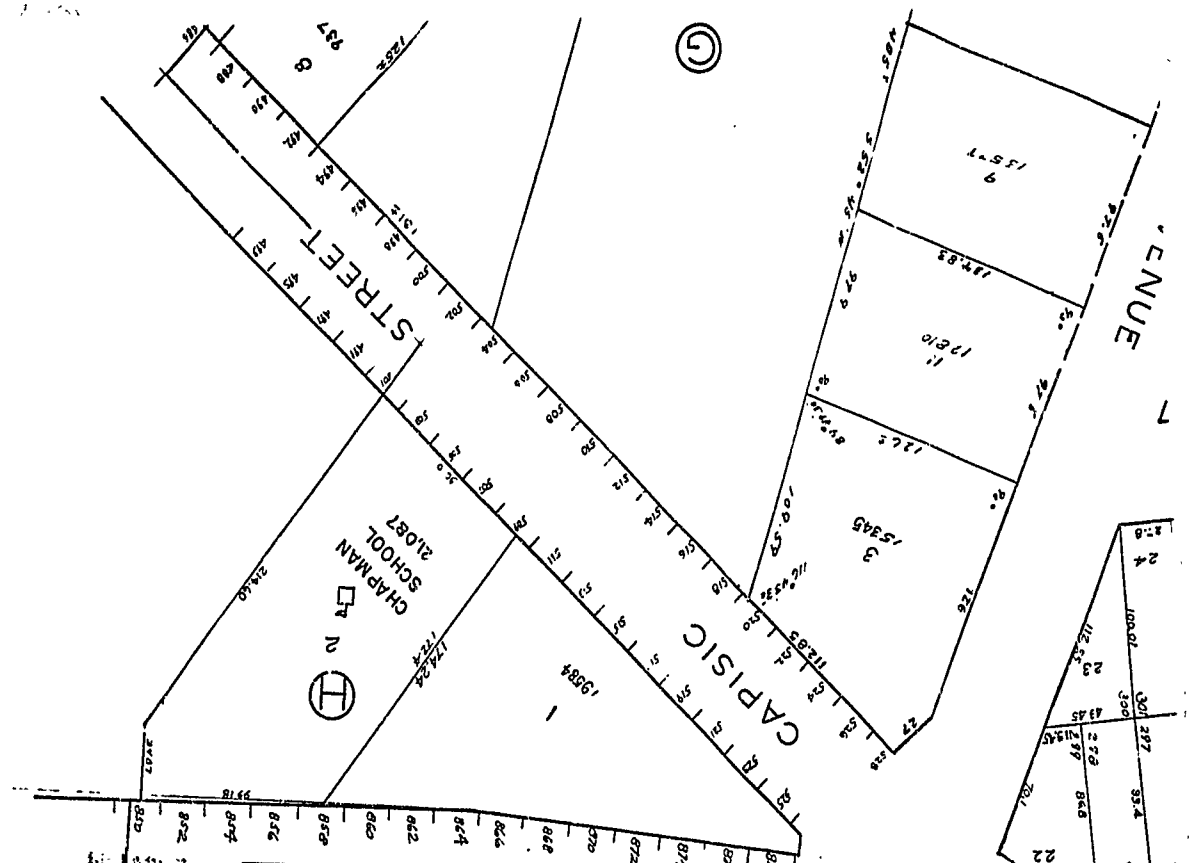
HOWEVER WITH TWO GASOLINE OPERATIONS THIS CLOSE TOGETHER, WE FEEL TRAFFIC WOULD BE ADVERSELY AFFECTED, CAUSING DANGER TO THE MOTORING PUBLIC, NOT ONLY ON BRIGHTON AVE, BUT TO THE TRAFFIC ON THE SIDE STREET WHICH ABUTTES BOTH LOCATIONS

Sincerely Yours

Joseph F Browne  
REAL ESTATE MANAGER

**XTRA MART**

JOSEPH F. BROWNE  
REAL ESTATE  
FAX: (203) 523-2172



CHAPMAN  
SCHOOL  
21,087

AVENUE 7  
SHEET 284-D  
KNIGHTON

AVENUE 7

CAPISIC STREET

DENNETT STREET

SHEET 285-A  
KENT STREET

KENT STREET





**CITY OF PORTLAND, MAINE**

ZONING BOARD OF APPEALS



973 Brighton Avenue

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Secretary

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THOMAS F. JEWELL  
RAY M. JOHNSON  
DEWEY MARTIN, JR.  
MICHAEL E. WESTORT

October 16, 1990

Mr. Dale C. Miles  
Brighton Avenue Beverage & Redemption Center  
973 Brighton Avenue  
Portland, Maine 04102

Dear Mr. Miles:

At the meeting of the Board of Appeals on Thursday evening, October 11th, the Board held a public hearing to consider your use variance to obtain permission to have gasoline pumps with underground storage tanks and a 46 foot by 46 foot canopy over the pumps. This use is no longer permitted in the B-1 Business Zone, where it formerly was a conditional use.

Following the public hearing, the Board of Appeals voted by a unanimous vote of six members present and voting to deny your use variance request. The Board found that the proposed use was not essential to a reasonable return on the property and that the hardship was the result of action taken by the applicant or a prior owner. A copy of the Board's decision is enclosed.

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, Inspection Services  
William D. Giroux, Zoning Enforcement Officer  
Kathleen Lowe, Code Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel

Applicant: Dale C. Miles Date: Oct 11, 1998  
Address: 869-879 Brighton Ave.  
Assessors No.: 284-E-1 to 4

CHECK LIST AGAINST ZONING ORDINANCE

Brighton Ave  
Essex to Kent

Date -

Zone Location - B-1 Zone

Interior or corner lot -

Use - Bottle Redemption Center

Sewage Disposal -

(Formerly service station)

Rear Yards -

Side Yards -

Front Yards -

Projections -

Height -

Lot Area - 19,158 #

Building Area -

Area per Family -

Width of Lot -

Lot Frontage -

Off-street Parking -

Loading Bays -

L \$ 35,920  
B 37,460  

---

T \$ 73,380

Site Plan -

Shoreland Zoning -

Flood Plains -

Taxes \$ 2,809.87

CITY OF PORTLAND, MAINE  
MEMORANDUM

90

TO: Gerry Pelletier, Data Processing  
FROM: Warren Turner, Administrative Assistant WDM  
SUBJECT: Request Labels 873 Brighton Ave.-Miles Appeal

DATE: September 18, 1990

May we please have the following labels:

259-D ✓

260-B ✓

260-C ✓

260-G ✓

260-H ✓

284-A ✓

284-C ✓

284-E ✓

284-G ✓

THANK YOU

THANK YOU

/e2

<p>           MCKENNA MICHAEL J &amp;            SHARON DAICY JTS            61 STEVENS AVE            PORTLAND MAINE            260 - C-003 04102         </p>	<p>           FOGG VERA E            19 DEVON CT            PORTLAND MAINE            284 - C-008 04102         </p>
<p>           MILES DALE C            873 BRIGHTON AVE            PORTLAND ME            284 - E-001 04102         </p>	<p>           FREEMAN ARLENE P &amp;            LEONARD K JTS            86 D'AMNETT ST            PORTLAND ME            284 - G-021 04102         </p>
<p>           MINAT CORPORATION THE            25 PEARL ST            PORTLAND MAINE            260 - C-008 04101         </p>	<p>           GAGNON RUDOLPH J            899 BRIGHTON AVE            PORTLAND ME            284 - C-001 04102         </p>
<p>           MOKARZEL JOHN J            22 DEVON ST            PORTLAND, MAINE            284 - A-024 04102         </p>	<p>           GAIN BLANDINE A            78 DENNET ST            PORTLAND ME            284 - G-020 04102         </p>
<p>           MOORE HOLLY A &amp;            STEVEN E REED            43 DORSET ST            PORTLAND MAINE            284 - A-015 04102         </p>	<p>           JEWELL FREDERICK F            832 BRIGHTON AVE            PORTLAND MAINE            259 - D-010 04102         </p>
<p>           MORIN MAURICE J &amp;            FRANCES A JTS            30 ESSEX ST            PORTLAND MAINE            284 - E-024 04102         </p>	<p>           GALLANT ROBERT H &amp;            JACQUELINE B ETAL JTS            114 HARTLEY ST            PORTLAND, ME            284 - A-002 04103         </p>
<p>           MORSE VINCENT F WWII            VET &amp; MARY E JTS            12 HIGGS ST            PORTLAND MAINE            284 - E-014 04102         </p>	<p>           GREENWALD ALISIA P &amp;            WILLIAM E JTS            19 KENT ST            PORTLAND ME            284 - E-008 04102         </p>
<p>           MEDEAU DONNA R            11 FLETCHER ST            KENNEBUNK ME            260 - B-029 04043         </p>	<p>           GROVE CORPORATION, THE            P O BOX 866            NO GROSVENORDALE CT            254 - G-001 06255         </p>
<p>           NEWELL RICHARD K &amp;            MARIE S JTS            480 CAPISIC ST            PORTLAND MAINE            260 - G-007 04102         </p>	<p>           HILL DAVID G &amp;            PATRICIA S JTS            44 KENT ST            PORTLAND ME            284 - C-018 04102         </p>
<p>           NILES MAVIS R            WID WWII VET            9 DORSET ST            PORTLAND, MAINE            284 - A-006 04102         </p>	<p>           HILLS JOHN J            36 RIGGS ST            PORTLAND ME            284 - C-014 04102         </p>
<p>           930 BRIGHTON AVENUE            ASSOCIATES            33 RIGBY RD            50 PORTLAND MAINE            284 - B-001 04106         </p>	<p>           JAMES KAPEN B &amp; THOMAS            19 DORSET ST            PORTLAND MAINE            284 - A-009 04102         </p>

<p>( COLLETT RUSSELL J &amp; SUSAN J JTS 3 LEDGEHILL RD GORHAM ME 260 - B-018 04038</p>	<p>( ( BREAKWATER SCHOOL ASSOCIATES 858 BRIGHTON AVE PORTLAND, MAINE 260 - H-002 04102</p>
<p>( COLLINS MARIE 30 DEVON ST PORTLAND ME 284 - A-021 04102</p>	<p>( ( BRUCE MARGARET LYNN LEWIS 25 DEVON ST PORTLAND ME 284 - C-010 04102</p>
<p>( COLLINS MARIE A; BRIAN E &amp; KAREN C WILLAUER JTS 36 DEVON ST PORTLAND MAINE 284 - A-020 04102</p>	<p>( ( BURCHILL JOHN F WWII VET &amp; ROSAMOND B JTS 33 DORSET ST PORTLAND MAINE 284 - A-012 04102</p>
<p>( COLLINS WILLIAM S WWII VET 53 ESSEX ST PORTLAND MAINE 284 - G-026 04102</p>	<p>( ( BURNELL GEORGE E JR &amp; SUSAN R JTS 492 CAPISIC ST PORTLAND ME 260 - G-008 04102</p>
<p>( COOMBS HERBERT J &amp; CONCETTA C JTS 30 RIGGS ST PORTLAND, MAINE 284 - C-016 04102</p>	<p>( ( CALDER MURIEL 20 KENT ST PORTLAND ME 284 - C-026 04102</p>
<p>( CURRAN MARY ARLENE 924 BRIGHTON AVE PORTLAND MAINE 260 - B-010 04102</p>	<p>( ( CAREY MILD A 918 B... TON AVE PORTLAND, ME 260 - B-013 04103</p>
<p>( DIDONATO AGOSTINO J WWII VET 24 DENNETT ST PORTLAND ME 284 - G-006 04102</p>	<p>( ( CASASA KATHLEEN L &amp; PHILIP T JTS 514 CAPISIC ST PORTLAND ME 260 - G-001 04102</p>
<p>( DIDONATO AGOSTINO J 24 DENNETT ST PORTLAND MAINE 284 - G-042 04102</p>	<p>( ( CHOI SUSAN 16 ESSEX ST PORTLAND, MAINE 284 - E-028 04102</p>
<p>( DOWNING A THOR J &amp; PATRICIA L JTS 44 RIGGS ST PORTLAND ME 284 - A-017 04102</p>	<p>( ( CHURCH CHARLES K WWII VET &amp; RITA C OR SURV 37 KENT ST PORTLAND MAINE 284 - E-012 04102</p>
<p>( DUGAS ROSE MARIE PO BOX 8423 PORTLAND ME 284 - C-006 04104</p>	<p>( ( CHURCH SCHOOL RESOURCES CORP 858 BRIGHTON AVE PORTLAND ME 259 - D-001 04102</p>
<p>( FAGONE JOSEPH P &amp; JUDITH A JTS 15 PHILBRICK AVE PORTLAND MAINE 260 - C-001 04102</p>	<p>( ( CLARK RICHARD C &amp; SHELLA M JTS 24 ESSEX ST PORTLAND ME 284 - E-026 04102</p>



( JOHNSON JANICE L 52 DENNETT ST PORTLAND ME		( PUTNAM SHELBY G WVET 44 DENNETT ST PORTLAND ME	
( 284 - G-012	04102	( 284 - G-011	04102
( LAX BLANCHE M & FREDERICK H JTS 20 ESSEX ST PORTLAND ME		( REDMOND PATRICIA I. & MICHAEL D JTS 915 BRIGHTON AVE PORTLAND, MAINE	
( 284 - E-027	04102	( 284 - A-004	04102
( MCDADE DONALD W & RISA G JTS 838 BRIGHTON AVE PORTLAND, MAINE		( REICHE KAREN FORD S JTS 17 COMMERCIAL ST PORTLAND MAINE	
( 259 - D-003	04102	( 284 - G-008	04101
( CLIFFORD EDWIN & JOHN F 14 DEVON ST PORTLAND MAINE		( RILEY ARTHUR C & OLIVE A JTS 520 CAPISIC ST PORTLAND, MAINE	
( 284 - A-026	04102	( 260 - G-003	04102
( LOWE RUSSELL H AND ARLINE D 28 DENNETT ST PORTLAND MAINE		( RILEY BARBARA J & PHILIP ETAL JTS 38 KENT ST PORTLAND ME	
( 284 - G-041	04102	( 284 - C-020	04102
( MALLOY RICHARD F HEIRS AND JOSEPH B 40 QUEBEC ST PORTLAND MAINE		( ROUX MARTA M WID WWII VET 50 ESSEX ST PORTLAND ME	
( 260 - C-031	04101	( 284 - E-019	04102
( FITZGERALD JUDITH J T & VICTOR ERNEST THAYER JTS 828 BRIGHTON AVE PORTLAND MAINE		( SCHARDEL, LYNN L 34 ESSEX ST PORTLAND, ME	
( 259 - D-008	04102	( 284 - E-023	04102
( THIBODEAU ALBERTINE MARY & MERILDA FORTIER JTS 37 DORSET ST PORTLAND ME		( SHOLETSKY LEONARD J ET AL JTS 26 KENT ST PORTLAND MAINE	
( 284 - A-014	04102	( 284 - C-023	04102
( MARZILLI ANTONIO AND ELMA E OR SURV 22 HILLCREST AVE PORTLAND ME		( SMITH LORRAINE R 74 DENNETT ST PORTLAND ME	
( 260 - C-018	04102	( 284 - G-018	04102
( MCCANN JAMES G PO BOX 9421 SO PORTLAND ME		( SPEAR CHARLES E JR & SUSAN N JTS 40 ESSEX ST PORTLAND MAINE	
( 260 - B-014	04106	( 284 - E-021	04102
		( STEWART, RUTH E 25 DORSET ST PORTLAND, ME	
		( 284 - A-011	04102



( ADAMS FRED A JR 18 KENT ST PORTLAND ME		( NOYES BARBARA F WID WW II VET 31 DEVON ST PORTLAND MAINE	
( 284 - C-027	04102	( 284 - C-012	04102
( ADELSON MARK B & MARGARET M JTS 87 ESSEX ST PORTLAND MAINE		( NUGENT LOUISE WATTS 18 DENNETT ST PORTLAND MAINE	
( 284 - G-036	04102	( 284 - G-004	04102
( ABBOTT DANIEL H & MONICA I JTS 62 DENNETT ST PORTLAND MAINE		( OBRION JAMES J AND ELIZABETH J OR SURV 34 DENNETT ST PORTLAND ME	
( 284 - G-016	04102	( 284 - G-009	04102
( AHERN KENNETH 662 CONGRESS ST PORTLAND ME		( OLESOMARIANNA G 30 HILLCREST AVE PORTLAND ME	
( 260 - B-033	04101	( 260 - G-012	04102
( ANDERSON DANIEL W %DESIGNATED PROPERTIES 431 SUMMIT ST PORTLAND ME		( PAISLEY ARTHUR D & NANCY W JTS 56 DENNETT ST PORTLAND ME	
( 284 - G-022	04103	( 284 - G-014	04102
( ANDERSON RUTH I 44 DENNETT ST PORTLAND ME		( PARIS JOHN P 71 ESSEX ST PORTLAND ME	
( 284 - G-045	04102	( 284 - G-030	04102
( ASHLEY WALTER JR & JOAN F SWAN ETAL 75 KENT ST PORTLAND ME		( PERRAULT JOSEPH H AND CLAUDETTE B OR SURV 68 DENNETT ST PORTLAND MAINE	
( 260 - C-005	04102	( 284 - G-017	04102
( BERNARD ARLYNE M & JOHN L JTS 95 JORSET ST PORTLAND ME		( PLATTS EVERETT J & ROBERTA J JTS 15 KENT ST PORTLAND ME	
( 284 - G-028	04102	( 284 - E-006	04102
( BERNARD HAZEL A WID WWII VET 40 DENNETT ST PORTLAND ME		( PLUZNICK MORRIS DEVS C/O MRS JOSEPH MODES 438 CAPSIC ST PORTLAND, MAINE	
( 284 - G-010	04102	( 260 - H-001	04102
( BOVE FRANK W II 51 ESSEX ST PORTLAND MAINE		( POLAN SELMA STOCKBRIDGE 25 KENT ST PORTLAND MAINE	
( 284 - G-024	04102	( 284 - E-009	04102
( BRALEY BETTY JEAN 81 ESSEX ST PORTLAND MAINE		( PROFENNO RICHARD J 11 KENT ST PORTLAND MAINE	
( 284 - G-033	04102	( 284 - E-005	04102

( THOMPSON HARRY B AND  
( DOROTHY H OR SURV  
( 12 DENNETT ST  
( PORTLAND ME  
( 284 - G-003 04102

( TRAINOR CHARLES E &  
( GLADYS F JTS  
( 2 MERILINE AVE  
( PORTLAND MAINE  
( 26C - C-012 04102

( WEST REGIS R &  
( MARGARET H JTS  
( 8 RIGGS ST  
( PORTLAND MAINE  
( 284 - E-017 04102

( PORTLAND CITY OF  
(  
( 284 - G-027 04101

Dale Miles  
Brighton Avenue Beverage &  
Redemption  
873 Brighton Avenue  
Portland, Maine 04101  
September 17, 1990

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

Re: Request for Zoning Use Variance  
Dale Miles d/b/a Brighton Avenue Beverage & Redemption

Dear Board Member:

By this letter I am requesting a Zoning Use Variance in order to install four (4) Blender gasoline pumps with necessary accessories including underground storage tanks at my building at 873 Brighton Avenue, Portland. I also ask for permission to install a 46' x 46' canopy over the pumps.

I presently operate Brighton Avenue Beverage and Redemption at this site.

The following address undue hardship issues as defined:

A. When I purchased/leased the premises (a former gas station) I intended to install gas pumps but at that time I did not have the money to install them. The city zoning changed last year requiring a variance for the installation of gas pumps in the B-1 Zone. Xtra Mart installed gas on the lot directly southeast in 1987. My building was designed and used as a gas station, looks like a gas station and I need to sell gas to keep my business profitable.

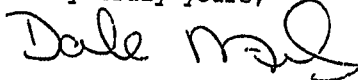
B. This lot and building was formerly a gas station and looks like a gas station. This neighborhood is commercial business with a gas station directly southeast.

C. Another gas station will not alter the character of the locality, as it is on high traffic, Brighton Avenue with commercial surroundings.

D. Zoning changed last year now requires a variance for the installation of gas pumps for the sale of gas.

I enclose a plot plan showing the requirements and measurements as well as a rough sketch of the sign.

Very truly yours,



Dale Miles



CITY OF PORTLAND

VARIANCE APPEAL

APPLICATION

Applicant's name and address: Dale Miles d/b/a Brighton  
Avenue Redemption Center. 873 Brighton Avenue. Portland

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

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

Address of property (or Assessor's chart, block and lot number):  
873 Brighton Avenue

Zone: B-1 Present use: Retail

Variance from: Section 14- 1462

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

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: September 14, 1990

Dale Miles  
Signature of Applicant

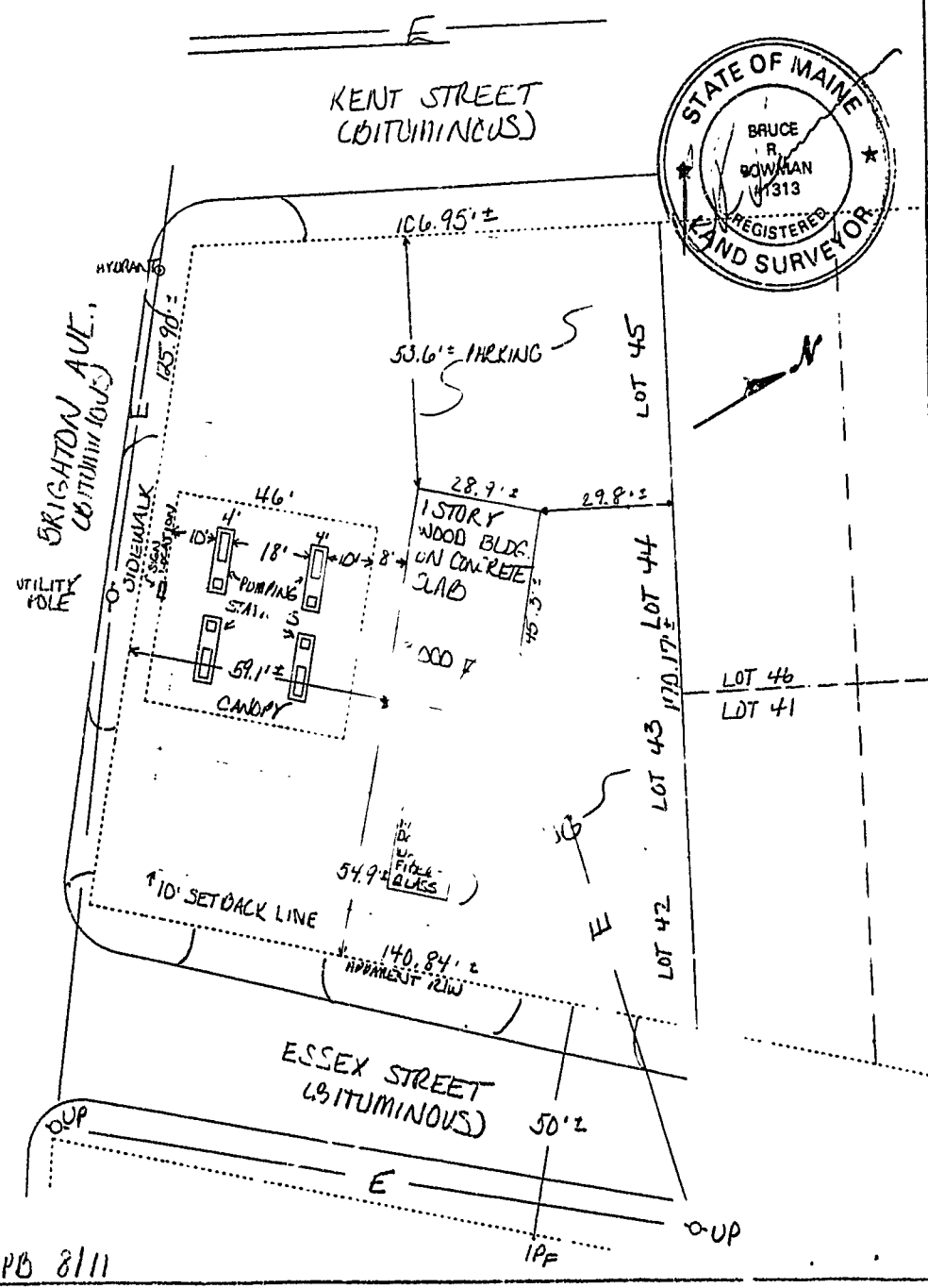
UNDOE HARDSHIP REQUIRED; DEFINED.

- 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.



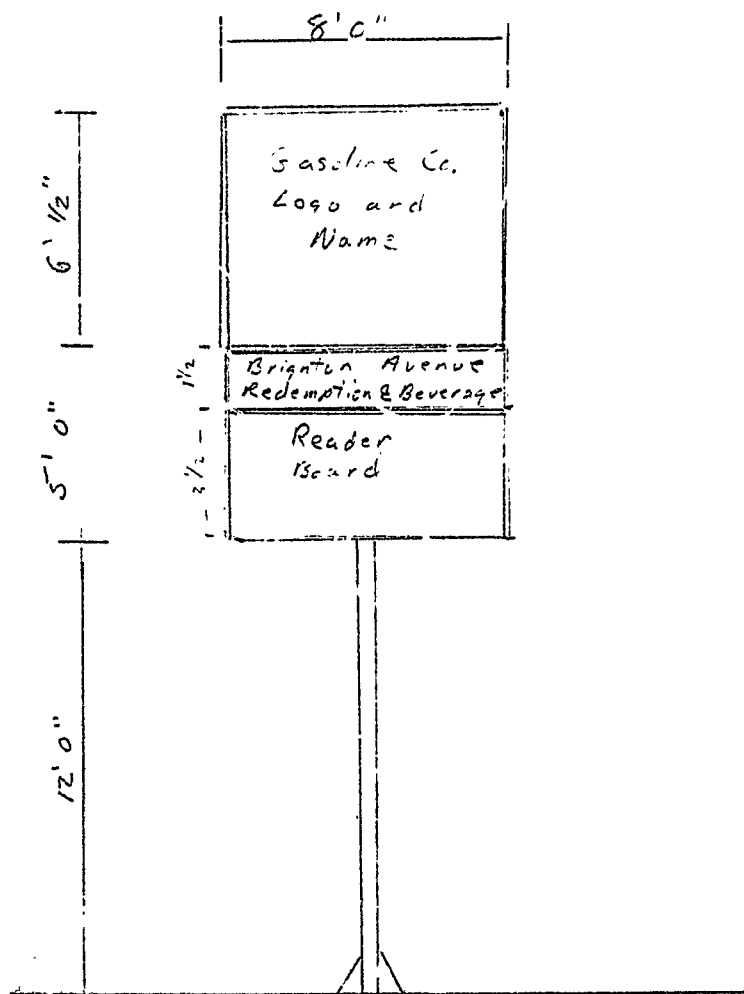
PROT. PLAN OF 345 BRIGHTON AVENUE  
SHOWING PROPOSED IMPROVEMENTS  
OWNER: DALE C. MILES

JOB NO. 124-38A  
DATE: 9/14/90  
SCALE: 1" = 30'



REF. PB 8111





Inspections Services



William D. Giroux  
Zoning Administrator

CITY OF PORTLAND

August 2, 1994

RE: 873 Brighton Avenue

Dale Miles  
Brighton Avenue Beverage  
873 Brighton Ave.  
Portland, ME 04102

Dear Mr. Miles:

This letter is notice that you are in violation of sections 14-167(1) and 14-167(6) of the Portland Land Use Code which read:

- (1) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (2) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 292-88, 4-4-88)

It is necessary that you remove all the materials and wastes from the premises and eliminate all outside storage prior to August 10, 1994 or the matter will be referred for legal action.

Sincerely,

  
William D. Giroux  
Zoning Administrator

/el

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development  
P. Samuel Hoffses, Chief of Inspection Services  
Marge Schmuckal, Asst. Chief of Inspection Services  
Kevin Carroll, Code Enforcement Officer

Inspection Services



William D. Giroux  
Zoning Administrator

CITY OF PORTLAND

July 12, 1994

RE: 873 Brighton Avenue

Dale Miles  
Brighton Avenue Redemption  
873 Brighton Ave.  
Portland, ME 04102

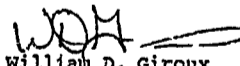
Dear Mr. Miles:

This letter is to notify you of a violation to the Portland Land Use Code identified on your property. You have recently begun storing large plastic bags outside of the building on a daily basis. This is in violation of the following requirements in the B1 zone.

- 14-166(6) Exterior storage: There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- 14-167(1) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- 14-167(6) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All materials which might cause fumes or dust, or constitute a fire hazard if stored out-of doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

It is necessary that you correct this violation within fourteen(14) days from date of this letter or the matter will be referred for legal action.

Sincerely,

  
William D. Giroux  
Zoning Administrator

/el

cc: P. Samuel Hoffses, Chief of Inspection Services  
Kevin Carroll, Code Enforcement Officer

Inspections Services



William D. Giroux  
Zoning Administrator

CITY OF PORTLAND

August 22, 1994

RE: 873 Brighton Avenue


Dale Miles  
Brighton Avenue Beverage  
873 Brighton Ave.  
Portland, ME 04102

Dear Mr. Miles

It has been two(2) weeks since I received your letter regarding your search for warehouse space. The Code Enforcement Officer reported to me today that the outside storage situation on your lot has worsened. We can not allow this violation to continue any longer.

On August 2nd, we sent notice that you were in violation of the Portland Land Use Code. I have attached that letter and the applicable sections for your information. This matter is being referred to the city's Corporation Counsel today for legal action.

Sincerely,

  
William D. Giroux  
Zoning Administrator

/el

Enclosure

cc: Gary Wood, Corporation Counsel  
Joseph E. Gray, Jr., Director of Planning and Urban Development  
P. Samuel Hoffses, Chief of Inspection Services  
Marge Schmuckal, Asst. Chief of Inspection Services  
Kevin Carroll, Code Enforcement Officer



900416

 Permit # City of Portland BUILDING PERMIT APPLICATION Fee \$37.50 Zone \_\_\_\_\_ Map # \_\_\_\_\_ Lot# \_\_\_\_\_

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

 Owner: Brighton Ave. Beverage Phone # 772-6665 (Dale Miles) owner

 Address: 873 Brighton Ave., Portland ME 04102

 LOCATION OF CONSTRUCTION 873 Brighton Avenue

 Contractor: Bailey Sign Co. Sub: 04092

 Address: 7 Thomas Drive, West., ME Phone # \_\_\_\_\_

 Est. Construction Cost: \_\_\_\_\_ Proposed Use: Beverage redemption

 P. & S. Use: same

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

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

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

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

 Explain Conversion To erect 10 1/2' x 6' pole sign, as per plan. Pole existing.
**Foundations:**

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

**Floor:**

1. Sills Size: \_\_\_\_\_ Sills must be anchored.
2. Girder Size: \_\_\_\_\_
3. Lally Column: Spacing: \_\_\_\_\_ Size: \_\_\_\_\_ Spacing 16" O.C.
4. Joists Size: \_\_\_\_\_ Size: \_\_\_\_\_
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 \_\_\_\_\_

White Tax Assessor Yellow GPCOG

 For Official Use Only **PERMIT ISSUED**

 Date May 18, 1990 Subdivision: \_\_\_\_\_  
 Inside Fire Limits \_\_\_\_\_ Name MAY 23 1990  
 Bldg Code \_\_\_\_\_ Lot \_\_\_\_\_  
 Time Limit \_\_\_\_\_ Ownership Public  
 Estimated Cost \_\_\_\_\_ **City of Portland**

 Zoning: B-1 Business  
 Street Frontage Provided: \_\_\_\_\_  
 Provided Setbacks: Front \_\_\_\_\_ Back \_\_\_\_\_ Side \_\_\_\_\_ Side \_\_\_\_\_

 Review Required:  
 Zoning Board Approval: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_  
 Planning Board Approval: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_  
 Conditional Use: \_\_\_\_\_ Variance \_\_\_\_\_ Site Plan \_\_\_\_\_ Subdivision \_\_\_\_\_  
 Shoreland Zoning Yes \_\_\_\_\_ No \_\_\_\_\_ Floodplain Yes \_\_\_\_\_ No \_\_\_\_\_  
 Special Exception \_\_\_\_\_  
 Other (Explain) OK WWA 5-22-90
**Ceiling:**

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

**Roof:**

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

**Chimneys:**

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

**Heating:**

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

**Electrical:**

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

**Plumbing:**

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

**Swimming Pools:**

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

 Permit Received By Joyce M. Rinaldi

 Signature of Applicant Dale Miles Date 5/18/90

Signature of CEO \_\_\_\_\_ Date \_\_\_\_\_

Inspection D \_\_\_\_\_

White Tag - CEO

[9] 1990



CITY OF PORTLAND, MAINE

369 CONGRESS STREET  
PORTLAND, MAINE 04101  
(207) 874-8300

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

P. SAMUEL HOFFSES, CHIEF  
INSPECTION SERVICES DIVISION

May 21, 1990


RE: 873 Brighton Avenue

Brighton Avenue Beverage  
873 Brighton Avenue  
Portland, Maine 04102

Dear Sir:

Your application to erect a sign at 873 Brighton Avenue is not issuable under section 14-366.(4).b. of the Land Use Code. It will be necessary for you to amend your application to conform with all regulations. Your permit will be held in abeyance for a short period to allow for this.

Sincerely,

  
William D. Giroux  
Zoning Codes Enforcement Officer

/el

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development  
P. Samuel Hoffses, Chief of Inspection Services  
Warren J. Turner, Administrative Assistant  
Kathy Lowe, Code Enforcement Officer





DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

CITY OF PORTLAND, MAINE

388 CONGRESS STREET  
PORTLAND, MAINE 04101  
(207) 874-8300

P. SAMUEL HOFFSES, CHIEF  
INSPECTION SERVICES DIVISION

May 21, 1990


RE: 873 Brighton Avenue

Dale Miles  
873 Brighton Avenue  
Portland, Maine 04102

Dear Sir:

Your application to erect an advertising balloon for one day is not issuable under section 14-366 of the Land Use Code. When you decide to erect signs in the future, you must apply at least 10 days prior to allow time for permit processing.

Sincerely,

  
William D. Giroux  
Zoning Codes Enforcement Officer

/el

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development  
P. Samuel Hoffses, Chief of Inspection Services  
Warren Turner, Administrative Assistant  
Kathy Lowe, Codes Enforcement Officer

Permit # 21 City of Portland BUILDING PERMIT APPLICATION Fee \$10. Zone \_\_\_\_\_ Map # \_\_\_\_\_ Lot# \_\_\_\_\_  
Please fill out any part which applies to job. Proper plans must accompany form.

Owner Dale Miles Phone # 772-6665  
Address: 873 Brighton Ave; Portland, ME 04102  
LOCATION OF CONSTRUCTION 873 Brighton Ave  
Contractor: \_\_\_\_\_ Sub: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone # \_\_\_\_\_  
Est. Construction Cost: \_\_\_\_\_ Proposed Use: commercial (Brighton Ave. Beverage)  
Past Use: commercial  
# of Existing Res. Units \_\_\_\_\_ # of New Res. Units \_\_\_\_\_  
Building Dimensions L \_\_\_\_\_ W \_\_\_\_\_ Total Sq. Ft. \_\_\_\_\_  
# Stories: \_\_\_\_\_ # Bedrooms \_\_\_\_\_ Lot Size: \_\_\_\_\_  
Is Proposed Use: Seasonal \_\_\_\_\_ Condominium \_\_\_\_\_ Conversion \_\_\_\_\_  
Explain Conversion Temporary Sign - second time - 4'x8'

**For Official Use Only** PERMIT ISSUED  
Date 3/23/90 Subdivision: \_\_\_\_\_ Name \_\_\_\_\_  
Inside Fire Limits \_\_\_\_\_ Lot MR 2C  
Bldg Code \_\_\_\_\_ Ownership: \_\_\_\_\_ Public \_\_\_\_\_  
Time Limit \_\_\_\_\_ Estimated Cost \_\_\_\_\_  
City Of Portland  
Zoning: R1  
Street Frontage Provided: \_\_\_\_\_  
Provided Setbacks: Front \_\_\_\_\_ Back \_\_\_\_\_ Side \_\_\_\_\_  
Review Required:  
Zoning Board Approval: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_  
Planning Board Approval: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_  
Conditional Use: \_\_\_\_\_ Variance \_\_\_\_\_ Site Plan \_\_\_\_\_ Subdivision \_\_\_\_\_  
Shoreland Zoning Yes \_\_\_\_\_ No \_\_\_\_\_ Floodplain Yes \_\_\_\_\_ No \_\_\_\_\_  
Special Exception \_\_\_\_\_  
Other OK W/D 3-26-90

Foundation: one month - 3/24/90 to 4/24/90  
1. Type of Soil: \_\_\_\_\_  
2. Set Backs - Front \_\_\_\_\_ Rear \_\_\_\_\_ Side(s) \_\_\_\_\_  
3. Footings Size: \_\_\_\_\_  
4. Foundation Size: \_\_\_\_\_  
5. Other \_\_\_\_\_  
Floor:  
1. Sills Size: \_\_\_\_\_ Sills must be anchored.  
2. Girder Size: \_\_\_\_\_  
3. Lally Column Spacing: \_\_\_\_\_ Size: \_\_\_\_\_  
4. Joists Size: \_\_\_\_\_ Spacing 16" O.C.  
5. Bridging Type: \_\_\_\_\_ Size: \_\_\_\_\_  
6. Floor Sheathing Type: \_\_\_\_\_ Size: \_\_\_\_\_  
7. Other Material: \_\_\_\_\_  
Exterior Walls:  
1. Studing 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. Studing Size \_\_\_\_\_ Spacing \_\_\_\_\_  
2. Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_  
3. Wall Covering Type \_\_\_\_\_  
4. Fire Wall if required \_\_\_\_\_  
5. Other Materials \_\_\_\_\_

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 \_\_\_\_\_  
Chimneys:  
Type: \_\_\_\_\_ Number of Fire Places \_\_\_\_\_  
Heating:  
Type of Heat: \_\_\_\_\_  
Electrical:  
Service Entrance Size: \_\_\_\_\_ Smoke Detector Required Yes \_\_\_\_\_ No \_\_\_\_\_  
Plumbing:  
1. Approval of soil test if required Yes \_\_\_\_\_ No \_\_\_\_\_  
2. No. of Tubs or Showers \_\_\_\_\_  
3. No. of Flushes \_\_\_\_\_  
4. No. of Lavatories \_\_\_\_\_  
5. No. of Other Fixtures \_\_\_\_\_  
Swimming Pools:  
1. Type: \_\_\_\_\_  
2. Pool Size: \_\_\_\_\_ x \_\_\_\_\_ Square Footage \_\_\_\_\_  
3. Must conform to National Electrical Code and State Law.  
Permit Received By Louise Chase  
Signature of Applicant Dale Miles Date 3/23/90  
Signature of CEO Dale Miles Date \_\_\_\_\_  
Inspection Dates \_\_\_\_\_



**CITY OF PORTLAND, MAINE**

389 CONGRESS STREET  
PORTLAND, MAINE 04101  
(207) 874-8300

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

**P. SAMUEL HOFFSES, CHIEF**  
INSPECTION SERVICES DIVISION

February 9, 1990

RE: 873 Brighton Avenue

Killer Construction Co.  
84 Portland Road  
Gray, Maine 04039

Gentlemen:

This is in further reference to your Permit No. 900013 which was issued on January 9, 1990 by this office. It has been determined that the portion of the building permit which dealt with a plan for a drive through cannot be approved and is hereby revoked. Interior renovations as contained in the plan submitted are authorized.

Proper screening from adjacent residential areas must be provided in the form of a fence or other barrier. When business zones abut residential zones some form of fencing or screening is then required. Possibly your client may wish to provide some type of security or stockade fencing along the perimeter of his lot at 873 Brighton Avenue in the B-1 Business Zone. Please advise this office concerning your intentions.

Sincerely,

  
William D. Giroux  
Zoning Enforcement Officer

/el

cc: P. Samuel Hoffses, Chief of Inspection Services  
Kathleen Lowe, Code Enforcement Officer  
Warren J. Turner, Administrative Assistant



CITY OF PORTLAND, MAINE

389 CONGRESS STREET  
PORTLAND, MAINE 04101  
(207) 874-8300

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

**P. SAMUEL HOFFSES, CHIEF**  
INSPECTION SERVICES DIVISION

March 1, 1990

Kibler Construction  
84 Portland Road  
Gray, ME 04037

Re: 873 Brighton Avenue, Portland, Maine.

Dear Sir:

A recent inspection at 873 Brighton Avenue, Portland, Maine has revealed less than a one-hour fire separation between your proposed retail space and storage areas. Also, be reminded you must provide self-closing devices on all fire doors.

Sincerely,

Mark Mitchell  
Code Enforcement Officer

MM/jmr

Permit # 61 City of Portland BUILDING PERMIT APPLICATION Fee \$10.00 Zone \_\_\_\_\_ Map # \_\_\_\_\_ Lot# \_\_\_\_\_

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

Owner: <u>Jean Mullen</u> Phone # _____ Address: <u>875 Brighton Ave Portland (Modern Paint &amp; Paper)</u> LOCATION OF CONSTRUCTION <u>873 Brighton Avenue</u> Lease _____ XXXXXX Dale Miles Sub: _____ Address: <u>same</u> 04102 Phone # <u>772-6665</u> Est. Construction Cost: _____ Proposed Use: <u>Bottle Redemption Store</u> Zoning: <u>B-1 Business</u> Past Use: <u>same</u> # of Existing Res. Units _____ # of New Res. Units _____ Building Dimensions L _____ W _____ Total Sq. Ft. _____ # Stories: _____ # Bedrooms _____ Lot Size: _____ Is Proposed Use: Seasonal _____ Condominium _____ Conversion _____ Explain Conversion <u>Erect sign from 1-29-90 to 3-1-90, lighted, non flash</u> <u>One plot plan enclosed.</u>	<p style="text-align: center;"><b>For Official Use Only</b></p> Subdivision: _____ Date <u>Jan. 29, 1990</u> Name _____ Inside Fire Limits _____ Lot _____ Bldg Code _____ Ownership: _____ Public _____ Time Limit _____ Private _____ Estimated Cost _____ Street Frontage Provided: _____ Provided Setbacks: Front _____ Back _____ Side _____ Review Required: Zoning Board Approval: Yes _____ No _____ Date: _____ Planning Board Approval: Yes _____ No _____ Date: _____ Conditional Use _____ Variance _____ Site Plan _____ Subdivision _____ Shoreland Zoning Yes _____ No _____ Floodplain Yes _____ No _____ Special Exception _____ Other (Explain) _____
---	---

**Foundation:**

- Type of Soil: \_\_\_\_\_
- Set Backs - Front \_\_\_\_\_ Rear \_\_\_\_\_ Side(n) \_\_\_\_\_
- Footings Size: \_\_\_\_\_
- Foundation Size: \_\_\_\_\_
- Other \_\_\_\_\_

**Floor:**

- Sills Size: \_\_\_\_\_ Sills must be anchored.
- Girder Size: \_\_\_\_\_
- Lally Column Spacing \_\_\_\_\_ Size: \_\_\_\_\_
- Joists Size: \_\_\_\_\_ Spacing 16" O.C.
- Bridging Type: \_\_\_\_\_ Size: \_\_\_\_\_
- Floor Sheathing Type: \_\_\_\_\_ Size: \_\_\_\_\_
- Other Material: \_\_\_\_\_

**Exterior Walls:**

- Studding Size \_\_\_\_\_ Spacing \_\_\_\_\_
- No. windows \_\_\_\_\_
- No. Doors \_\_\_\_\_
- Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_
- Bracing: Yes \_\_\_\_\_ No \_\_\_\_\_
- Corner Posts Size \_\_\_\_\_
- Insulation Type \_\_\_\_\_ Size \_\_\_\_\_
- Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_
- Siding Type \_\_\_\_\_ Weather Exposure \_\_\_\_\_
- Masonry Materials \_\_\_\_\_
- Metal Materials \_\_\_\_\_

**Interior Walls:**

- Studding Size \_\_\_\_\_ Spacing \_\_\_\_\_
- Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_
- Wall Covering Type \_\_\_\_\_
- Fire Wall if required \_\_\_\_\_
- Other Materials \_\_\_\_\_

**Ceiling:**

- Ceiling Joists Size: \_\_\_\_\_ Spacing \_\_\_\_\_
- Ceiling Strapping Size \_\_\_\_\_
- Type Ceilings: \_\_\_\_\_
- Insulation Type \_\_\_\_\_
- Ceiling Height: \_\_\_\_\_

**Roof:**

- Truss or Rafter Size \_\_\_\_\_ Span \_\_\_\_\_
- Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_
- Roof Covering Type \_\_\_\_\_

**Chimneys:**

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

**Heating:**

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

**Electrical:**

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

**Plumbing:**

- Approval of soil test if required Yes \_\_\_\_\_ No \_\_\_\_\_
- No. of Tubs or Showers \_\_\_\_\_
- No. of Flushes \_\_\_\_\_
- No. of Lavatories \_\_\_\_\_
- No. of Other Fixtures \_\_\_\_\_

**Swimming Pools:**

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

Permit Received By Joyce M. Rinaldi

Signature of Applicant Dale M. Mullen Date 1/29/90

Signature of CEC \_\_\_\_\_ Date \_\_\_\_\_

Inspection Dates \_\_\_\_\_

2 Kathy Lowe

White-Tax Assessor

Yellow-GPCOG

White Tag -CEO

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*10/16/90*

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



MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

ERIC J. GOUVIN  
THOMAS F. JEWELL  
RAY M. JOHNSON  
DEWEY MARTIN, JR.  
MICHAEL E. WESTORT

973 Brighton Avenue

October 16, 1990

Mr. Dale C. Miles  
Brighton Avenue Beverage & Redemption Center  
973 Brighton Avenue  
Portland, Maine 04102

Dear Mr. Miles:

At the meeting of the Board of Appeals on Thursday evening, October 11th, the Board held a public hearing to consider your use variance to obtain permission to have gasoline pumps with underground storage tanks and a 46 foot by 46 foot canopy over the pumps. This use is no longer permitted in the B-1 Business Zone, where it formerly was a conditional use.

Following the public hearing, the Board of Appeals voted by a unanimous vote of six members present and voting to deny your use variance request. The Board found that the proposed use was not essential to a reasonable return on the property and that the hardship was the result of action taken by the applicant or a prior owner. A copy of the Board's decision is enclosed.

Sincerely,

*Warren J. Turner*  
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, Inspection Services  
William D. Giroux, Zoning Enforcement Officer  
Kathleen Lowe, Code Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel



Oct. 11, 1990

FINDINGS OF FACT  
ALL APPEALS

TYPE OF APPEAL ~~Special~~ Use Variance

1. Name of Applicant Dale Miles

2. Address of Applicant 873 Brighton Ave

3. Right of applicant to appeal.  
Owner

Option to Purchase

4. Location of property under appeal ~~873~~ 873 Brighton Ave

5. Zone in which the property is located B-1

6. Present use of property Beverage Redemption Center

7. Proposed use if the appeal is granted.  
Addition of car pumps, tanks, hood etc.

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

John French  
Dale Miles

9. Names and addresses of those appearing in opposition to the application:

Vern Savage  
Richard Profano

10. Listing of the documentary evidence presented to the Board (e.g., plans, photos, maps, etc.)

VARIANCES

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

1. Can the land yield a reasonable return (not the highest return) without the granting of a variance?

Yes 6 (deny the appeal)  
No 0

Reasons (including evidence) baseline sales 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 6 (deny the appeal)

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

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

Yes 6 (deny the appeal)  
No 0

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

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

Yes 6 (deny the appeal)  
No 0

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

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

Yes \_\_\_\_\_  
No \_\_\_\_\_

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

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

Date of Public Hearing Oct. 11, 1990

Motion \_\_\_\_\_

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

Votes in Favor - 0  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Votes Opposed - 6  
*John J. King*  
*Michael E. Luff*  
*Thomas J. ...*  
*...*  
*...*  
*...*

Bldg Insp FILE - 873 Brighton Ave

STATE OF MAINE  
CUMBERLAND, ss.

MAINE DISTRICT COURT  
DISTRICT NINE  
DIVISION OF SO. CUMBERLAND  
DOCKET NO. \_\_\_\_\_

CITY OF PORTLAND, a body politic )  
and corporate, located in the )  
County of Cumberland and State of )  
Maine, )

Plaintiff )

v. )

LAND USE CITATION  
AND COMPLAINT

DALE MILES, )

Defendant )

To Alleged Violator:

Name Miles Dale  
(Last) (First) (Middle)

Mailing Address:

Street 873 Brighton Avenue  
City/Town Portland Zip Code 04102

COMPLAINT

You are charged with the following:

VIOLATION

Date of Violation, or When First Observed by Complaining  
Official

Month August Day 1 Year 1994

Location of Violation 873 Brighton Avenue Portland  
Street City/Town

Description of Violation Outdoor storage of used beverage  
containers.

**Legal Basis of Complaint:\***

Violation of State Law, Title 30-A Section 4452(2)  
or State Agency Rule No. \_\_\_\_\_ Adopted by Department of \_\_\_\_\_

Violation of Municipal Ordinance or Regulation

Title \_\_\_\_\_  
Section(s) 14-167(1) and (6)  
Page(s) 1187

Summary of law, ordinance or regulation allegedly violated

Uses must be operated within fully enclosed structures; outdoor storage of wastes prohibited if it attracts large numbers of birds, rodents or insects.

Penalty Provision Section 30-A M.R.S.A. §4452(3)(B) Page(s) 522-3

Penalty Amount \$100-\$2500 per day

\*If violation is of State agency rule, or municipal ordinance or regulation, attach certified copy to original of this form for service and filing.

**Relief Sought from Court**

- Temporary Restraining Order (complete Affidavit and Certificate below)
- Preliminary Injunction
- Permanent Injunction
- Civil Penalty
- Removal of Violation
- Other Attorney's fees pursuant to 30-A M.R.S.A. §4452(3)(D)

**CERTIFICATE**

I certify that I have made the following efforts to give notice to the alleged violator and that notice is not required for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_



CITATION

You are hereby summoned to appear in District Court at the location and date indicated below to answer to the above Complaint. In the event of your failure to appear and state your defense on the court date specified, a judgment by default may be rendered against you. You are advised to call the District Court to verify the date and time of your appearance.

District Court 9th Date 3/10/95 Time 9:00 a.m. Tel. (207)822-4200

I (have) (find) reasonable grounds to believe that the above-complained of violation was committed because I viewed the premises and witnessed the outside storage of items.

Signature of Complainant/Clerk

\*Signature

Marya Schmidt

Name of complainant if signed by clerk: \_\_\_\_\_

State Agency: \_\_\_\_\_ Title: \_\_\_\_\_

City/Town: Portland Title: Assistant Chief of Insp. Services Date: 1/6/95

\*If applicable, attach copy of certification from Department of Human Services.

NOTICE TO PROPERTY OWNER  
(if not alleged violator)

To Property Owner:

Name \_\_\_\_\_  
(Last) (First) (Middle)

Mailing Address: \_\_\_\_\_  
Street City/Town State Zip

You are hereby notified that the original of this Citation and Complaint has been or will be served on the (above-named) (clerk of the corporation) and that if you wish to defend your own interest you should appear in District Court at the above indicated time and place. You are advised to call the District Court to verify date and time of the appearance.

Signature of person making service on alleged violator:

Date: 2/7/95

Kim Blouell

ACKNOWLEDGEMENT OF RECEIPT

I acknowledge receipt of this Citation and Complaint.

Joe Miles  
Signature of alleged violator

Signing this Complaint does not constitute an admission of guilt.

RETURN

On the 7 day of Feb, 1995, I served this Citation and Complaint upon Joe Miles  
(alleged violator) (property owner)  
by:

delivering it to (him) (her) personally at 873 Brighton Ave,  
Portland, Maine within this state;

delivering it to Joe Miles Proprietor  
(name and title)

personally within this state; and or

(other method) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The alleged violator, if served personally has been advised of this violation and (has signed above to acknowledge receipt of this Citation and Complaint) (~~has refused to sign~~) (~~was unable to sign~~).

Date: 2/7/95

Kevin M. Casare  
Signature of person serving process

PROOF OF ORDINANCES

Pursuant to 30-A M.R.S.A. §3006, the undersigned clerk/assistant clerk of the City of Portland hereby certifies that the attached ordinance section number 14-167 of the City of Portland is a valid copy of the ordinance of the City of Portland.

Dated: 1-5-95

  
Clerk/Assistant Clerk

total parking provided on the site may be located between the principal structure and the front yard.

- (5) *Signs*: Signs shall be subject to the provisions of division 22 of this article.
- (6) *Exterior storage*: There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (7) *Storage of vehicles*: Storage of vehicles is subject to the provisions of section 14-335.
- (8) *Shoreland and flood plain management regulations*: If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 292-88, 4-4-88)

**Sec. 14-167. External effects.**

Every use in a B-1 zone shall be subject to the following requirements:

- (1) *Enclosed structure*: The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (2) *Noise*: The volume of sound, measured by a sound level meter with frequency weighting network manufactured according to standards prescribed by the American Standards Association, generated shall not exceed fifty-five (55) decibels on the A scale on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (3) *Vibration and heat*: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (4) *Glare, radiation or fumes*: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (5) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (6) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 292-88, 4-4-88)

Secs. 14-168-14-180. Reserved.

for file

STATE OF MAINE  
CUMBERLAND, ss.

MAINE DISTRICT COURT  
DISTRICT NINE  
DIVISION OF SO. CUMBERLAND  
DOCKET NO. POR-95-LU-003

CITY OF PORTLAND, a body politic  
and corporate, located in the  
County of Cumberland and State of  
Maine,

Plaintiff

vs.

DALE MILES,

Defendant

ORDER

By agreement and consent of the parties, judgment is hereby entered for Plaintiff and it is hereby ORDERED that:

1. Defendant shall immediately cease outdoor storage of all items and materials relating to its business of the sale of beverages and the redemption of returnable containers at 873 Brighton Avenue in Portland, Maine, and shall not perform nor permit any future outdoor storage of such items. "Outdoor storage" shall be defined as any storage outside of either any enclosed building or any enclosed trailer located on the premises. Defendant may temporarily place bags containing returnable beverage containers outside of an enclosed building or enclosed trailer, while actively engaged in bagging and storing of such containers, provided that such temporary placement does not exceed one (1) hour in length.

2. There shall be no costs assessed to either party.

3. In the event Defendant fails or refuses to comply with



any of the terms of this Order, he shall be deemed to be in contempt and shall be liable to the City for a civil penalty of One Hundred Dollars (\$100.00) per day, and for such other and further relief as the Court may deem appropriate.

The Clerk is directed to incorporate this Order on the docket by a notation pursuant to Rule 79(a).

Dated: May 5, 1995

  
\_\_\_\_\_  
Judge, District Court

I, DALE MILES, Defendant, hereby consent to the above Order being entered in the referenced case, POR-95-LU-003.

Dated: May \_\_, 1995.

  
\_\_\_\_\_  
DALE MILES

REC'D MAY 5 1995

5-5-95