

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



66-72 Abby Lane

MERRILL S. SELTZER
Chairman

JACQUELINE COHEN
Secretary

TIMOTHY E. FLAHERTY
ROBERT J. GAUDREAU
EUGENE S. MARTIN
PAULETTE P. PARKER
MICHAEL E. WESTORT

December 3, 1984

Joseph A. DiPietro
70 Abby Lane
Portland, ME 04103

Dear Mr. DiPietro:

As you know, at its meeting of November 29, 1984, the Board of Appeals voted to permit change of use of the single family dwelling at the above location to a single family dwelling with an accessory dwelling unit on the second floor of the existing garage for the benefit of an older tenant.

A copy of the Board's decision is enclosed for your information.

According to ordinance, this accessory unit will be inspected on a yearly basis to insure that it is not being rented out.

You should now come in to this office to pay the fee for a change of use permit.

Sincerely,

Kathleen A. Taylor
Secretary

enclosure

CITY OF PORTLAND, MAINE

CONDITIONAL USE APPEAL

Findings of Fact

PART I (Procedural)

1. The applicant is Joseph A. DiPietro and is interested in the property located at 66-72 Abby Lane.
2. The owner of the property is Joseph A. DiPietro and his address is 70 Abby Lane, Portland, ME 04103.
3. The property is located in a R-2 Zone.
4. The present use of the property is single family.
5. The applicant respectfully petitions for a conditional use to permit accessory dwelling unit on second floor of existing garage for older tenant.
6. The names and addresses of those appearing in support of the application are: Mr De Pietro, Pat Haley - 55 Abby Lane.
7. The names and addresses of those appearing in opposition to the application are: letter from Mrs Mrs Leahy, 53 Carter St.
8. The documentary evidence presented to the Board, including, but not by way of limitation, plans, specifications, photographs, etc., consisted of the following: _____

~~1.1.1~~

PART II (Basis for Conditional Use Treatment)

1. The use proposed is designated as a conditional use in the zone where the property is located by S.14-78.1.b. of the Ordinance.
 Yes No

2. All specified requirements for the use as a conditional use (space, bulk, performance standards, etc.) are determined to be met by applicant.
 Yes No

If no, specify: _____

PART III (Consideration of Any Negative Aspects of Use)

1. Are there unique or distinctive characteristics or effects associated with the proposed conditional use?
 Yes No

If yes, specify: _____

(If the Board has answered "yes" to the above question, the Board must also make the following finding:)

2. Will there be an adverse impact upon the health, safety, or welfare of the public or the surrounding area which impact differs substantially from the impact which would normally occur from such a use in that zone?
 Yes No

If yes, state reasons: _____

(If both questions in Part II are answered in the affirmative and either of the questions in Part III is answered in the negative, the Board should grant the Appeal.)

SPECIFIC RELIEF GRANTED

After a public hearing on Nov. 29, 1984, the Board determines that a conditional use (is) (is not) granted in this matter for the reasons stated above.

Dated: Nov 29, 1984

Merrill W. Selzer Chair
Joacqueline Gler
Michael E. Waters
Paul H. Leach
Robert J. Anderson
James E. Halpern
George J. Martin

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November 13, 1984

Joseph A. DiPietro
70 Abby Lane
Portland, ME 04103

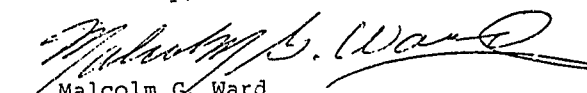
Dear Mr. DiPietro:

Building permit and certificate of occupancy to change the use of the single family dwelling at the above-named location to a single family dwelling with an accessory dwelling unit on the second floor of the existing garage for the benefit of an older tenant are not issuable under the Zoning Ordinance because the proposed use is not allowable in the R-2 Residential Zone in which this property is located unless authorized by the Board of Appeals under the provisions of Section 14-7R.1.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 315, City Hall, to file the appeal on forms which are available here.

A fee of \$50 for a Conditional 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 14-474.

Sincerely,


Malcolm G. Ward
Zoning Enforcement Officer

MGW/kat

October 31, 1984

Board of Appeal
City Hall
Portland, Maine

Dear Sirs:

We have already had an approval on the addition as you will note on one of the enclosed letters. It is for my mother-in-law who is 73 years of age and widowed.

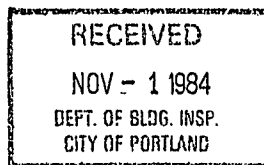
As an after-thought, we would like to install a one-piece unit consisting of a stove, refrigerator and sink. This would enable my mother-in-law to keep her independence which is very important to her. She has always owned her own home and been completely independent. But after my father-in-law's death a year and half ago she finds it to hard to live alone. As a result of this last month she sold her house and is coming to live with us. This unit would make it possible for her to be able to prepare breakfast and maybe lunch if she so wished. I'm sure that there will be times when she may not want to join us for all meals because I still have a growing family and that can sometimes be hectic and confusing for a person of this age.

As another after-thought, we have added a door going into the main house. This door opens directly into one of our existing bedrooms. We feel that this door has two purposes for us. One is that she would have another exit in case of fire and another that if she were to take sick during the night we would have immediate access to her room.

Sincerely yours,

Joseph A. DiPietro

Joseph A. DiPietro
40 Abby Lane
Portland, Maine 04103





CITY OF PORTLAND

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
INSPECTION SERVICES DIVISION

August 14, 1984

A.L. Doria Co.
Wolcott Ave.,
Falmouth, Me.

Ref: 70 Abby Lane, Ptld, Me

Dear Sir:

Your application to construct a 22' x 32' second story addition to garage has been reviewed and a building permit is herewith issued subject to the following requirements.

1. 1716.3.4 Dwelling units: A minimum of one single station smoke detector shall be installed in each guest room suite or sleeping area in buildings of Use Group R-1 and in dwelling units within buildings of Use Groups R-2 or R-3. It shall be installed in a manner and location approved by the authority having jurisdiction. When actuated, the detector shall provide an alarm suitable to warn the occupants within the individual unit (see Section 1717.3.1). In buildings having basements or cellars in additional smoke detector shall be installed in the basement or cellar in a location approved by the authority having jurisdiction.
2. 613.1 Dwellings: Private garages located beneath dwellings shall have walls, partitions, floors and ceilings separating the garage space from the dwellings constructed of not less than one hour fire-resistance rating. Private garages attached to dwellings shall be completely separated from the dwellings and their attic area by means of one half inch gypsum board or equivalent applied to the garage side. The sills of all door openings between the garage and dwellings shall be raised not less than 4 inches (102mm) above the garage floor. The door opening protectives shall be 1 3/4 inch solid core wood doors or approved equivalent.
3. 809.4 Emergency escape: Every sleeping room below the fourth story in buildings of Use Group R shall have at least one operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside opening without the use of separate tools. Where windows are provided as a means of egress or rescue, they shall have a sill height not more than 44 inches (1118mm) above the floor. All egress or rescue windows from sleeping rooms must have a minimum net clear opening of 5.7 square feet (0.53m²). The minimum net clear opening height dimension shall be 24 inches (610mm). The minimum net clear opening width dimension shall be 20 inches (508mm).



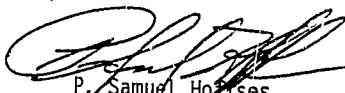
CITY OF PORTLAND

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
INSPECTION SERVICES DIVISION

Bars, grilles or screens placed over emergency escape windows shall be releasable or removable from the inside without the use of a key, tool or excessive force.

If you have any questions on these requirements please call this office.

Sincerely,


P. Samuel Hoffses
Chief of Insp. Services

RECEIVED
NOV - 1 1984
DEPT. OF BLDG. INSP.
CITY OF PORTLAND



CITY OF PORTLAND

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
INSPECTION SERVICES DIVISION

October 10, 1984

A.L. Doria Co.
Wolcott Ave.,
Falmouth, Me 04105

RE: 70 Abby Lane, Ptld, Me

Dear Sir:

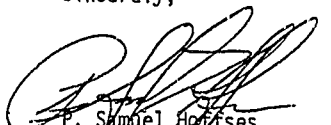
It has been brought to the attention of this office that you have installed a kitchen unit in your addition of building permit #095 dated Aug. 15, 1984.

Your plan didn't show such a unit, and by placing this unit in the addition you have added a second dwelling unit which is in violation of the Cities Land Use Code (Chapter 14 Division 3 Section 14-76). This unit must be removed to place this addition in compliance.

If at a later date you wish to have an inlaw apt. you have the right to exercise your right of appeal as a conditional use.

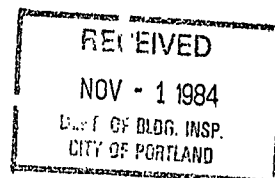
If you have any questions on this matter, please call this office.

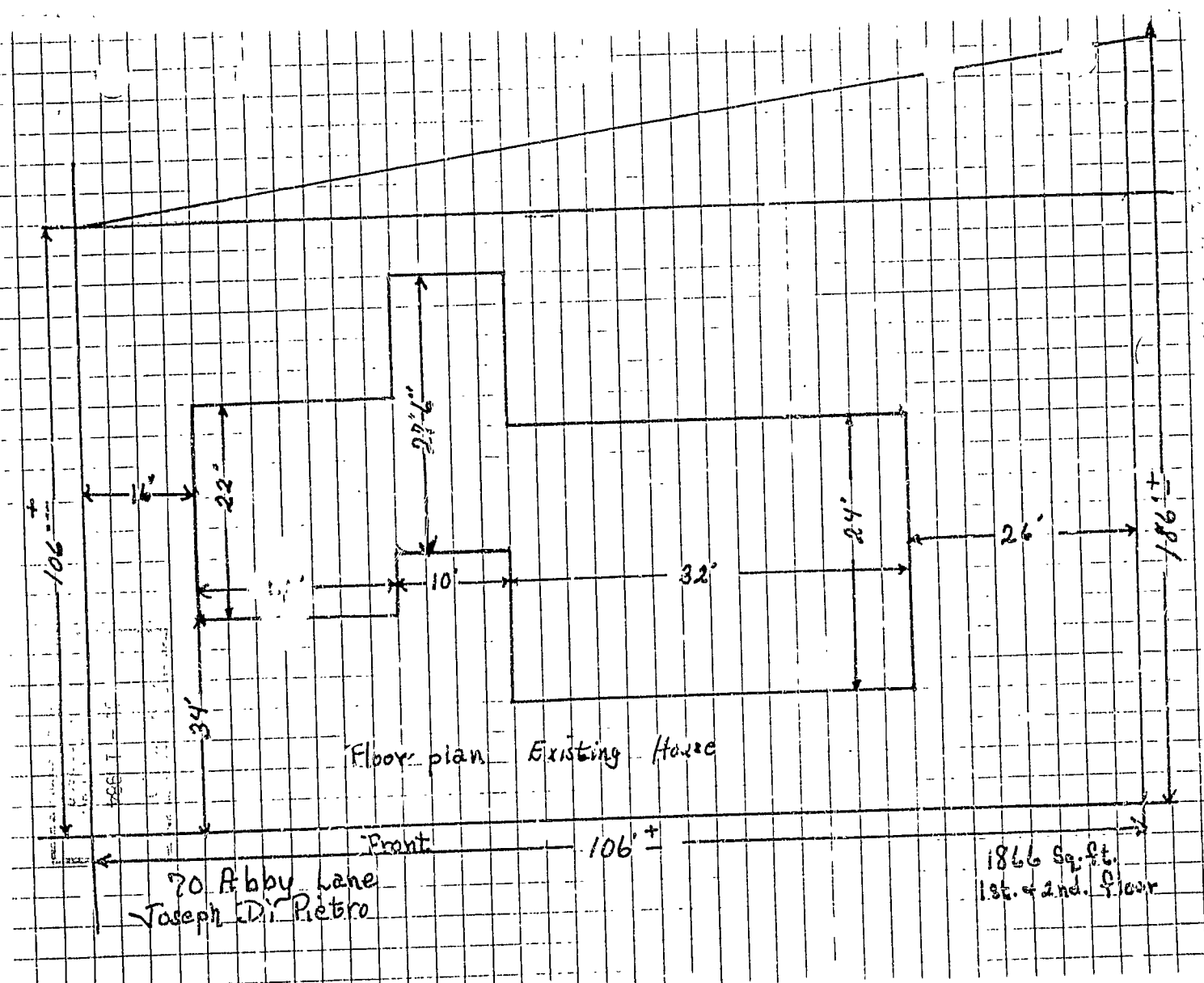
Sincerely,



P. Samuel Hoffses
Chief of Insp. Services

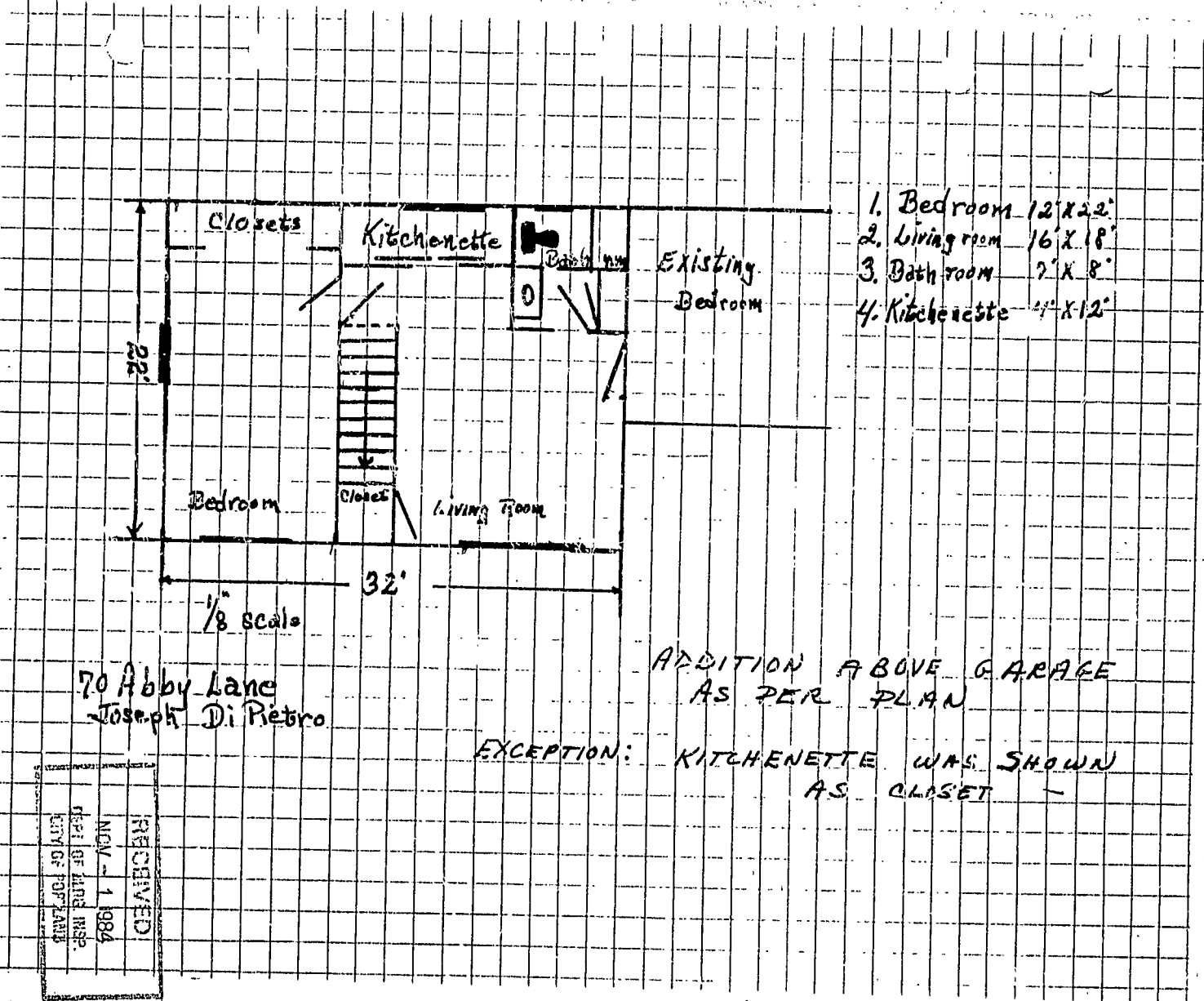
cc: Joseph DiPietro





20 Abby Lane
Joseph Di Pietro

1866 Sq. Ft.
1st. & 2nd. floor



- 1. Bedroom 12'x22'
- 2. Living room 16'x18'
- 3. Bath room 7'x8'
- 4. Kitchenette 4'x12'

70 Abby Lane
Joseph Di Pietro

ADDITION ABOVE GARAGE
AS PER PLAN

EXCEPTION: KITCHENETTE WAS SHOWN
AS CLOSET -

RECEIVED
NOV - 1 1984
DEPT OF HOME INSP
CITY OF PORTLAND

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



66-72 Abby Lane

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PAULETTE P. PARKER
MICHAEL E. WESTORT

All persons interested either for or against this Conditional Use Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday, November 29, 1984 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.

Joseph A. DiFietro, owner of property located at 66-72 Abby Lane, under the provisions of Section 14-474 of the Zoning Ordinance of the City of Portland, hereby respectfully petitions the Board of Appeals to permit a change of use of the single family dwelling at the above-named location to a single family dwelling with an accessory dwelling unit on the second floor of an existing garage for the benefit of an older tenant, which use is not allowed in the R-2 Residential Zone in which this property is located unless authorized by the Board of Appeals under the provisions of Section 14-78.1.b.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-474 of the Zoning Ordinance have been met.

Jacqueline Cohen
Secretary

11/16/84
kat

66-72 Abby Lane

388-H-3

5200'

388-A-1 ✓

2 ✓

3 ✓

11 ✓

12 ✓

13 ✓

14 ✓

15 ✓

16 ✓

23 ✓

24 ✓

25 ✓

26 ✓

27 ✓

28 ✓

388-B-17 ✓

18 ✓

19 ✓

20 ✓

21 ✓

22 ✓

~~389-A-9~~
P

389-C-7 ✓

8 ✓

9 ✓

10 ✓

389-D-1 ✓

2 ✓

3 ✓

9-?

13 ✓

14 ✓

17-?

389-E-3

6 ✓

7 ✓

16 ✓

389-A-A-9 ✓

4 ✓

7 ✓

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10 ✓

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14 ✓

388A-A-15 ✓

16 ✓

17 ✓

18 ✓

19 ✓

388A-B-1 ✓

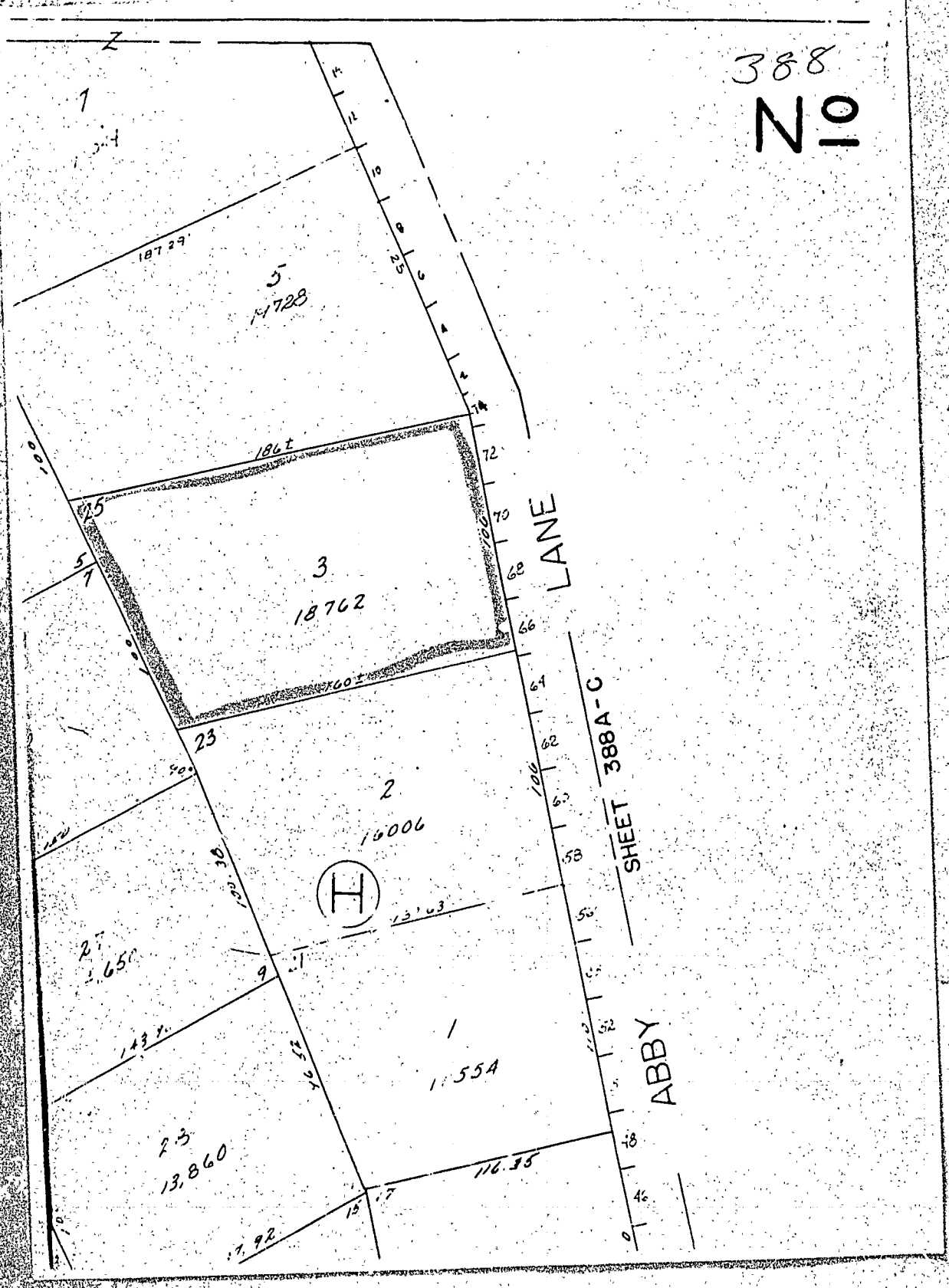
2 ✓

3 ✓

5 ✓

6 ✓

388
No



CITY OF PORTLAND, MAINE
IN THE BOARD OF APPEALS

APPLICATION FOR A CONDITIONAL USE APPEAL

Joseph A. DiPietro, owner of property at 70 Abby Lane

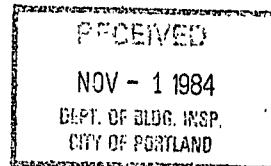
under the provisions of Section 14-474 of the Zoning Ordinance of the City of
Portland, hereby respectfully petitions the Board of Appeals to permit:

change of use of the single family dwelling to a single family
dwelling with accessory dwelling unit on second floor of existing
garage for benefit of an older tenant, not allowed in R-2 Residential
Zone unless authorized by Board of Appeals under Section 14-78.1.b

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds
that the conditions imposed by Section 14-474 (c) 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.


APPELLANT



CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Chairman & Members of the Board of Appeals DATE: Nov. 19, 1984
FROM: Warren J. Turner, Zoning Specialist, Planning *Warren J. Turner*
SUBJECT: Agenda for Thursday, Nov. 29, 1984

1. Conditional Uses:

66-72 Abby Lane - Joseph A. DiPietro

This is a request for a change of use in the R-2 Residence Zone to accommodate a change from a single-family to a single-family dwelling with an accessory dwelling unit on the second floor of an existing garage for the benefit of an older tenant (73 years of age).

Section 14-78. 1. b. requires approval by the Board of Appeals subject to the following:

- a) No more than 25% of the gross floor area of the principal building; a minimum floor area of 400 square feet....
- b) Lot area shall be 8,000 sq. ft. for dwelling in existence as of May 1, 1984. The subject lot is 18,762 with 106 feet of frontage on Abby Lane at #70.
- c) No open or outside stairways or fire escapes
- d) Any addition shall be compatible with existing structures;
- e) Limitations for basement unit is not applicable
- f) Either accessory or principal unit must be occupied by the owner of the lot.
- g) Either the accessory unit or the principal dwelling shall be occupied by a person sixty years of age or older or by a handicapped person.

2. Variances - Space and Bulk:

53-61 Carroll Street; corner of Vaughan Street - David & Margaret Coit

This is a request for a change of use from a single-family to a two-family dwelling with an accessory apartment only 380 sq. ft. in floor area instead of 600 sq. ft. minimum required by Section 14-102.1.c.1. of the Ordinance applying to the R-4 Residence Zone in which this property is located.

Efficiency or studio apartments which have become acceptable by today's standards often do not include as much as 600 sq. ft. of floor area for an apartment unit.

Recommend approval of this variance request. It appears that the subject dwelling is of sufficient size to justify the establishment of a secondary apartment unit.

WJT/eja

Enclosure: Agenda for 11-29-84

cc: . Joseph E. Gray, Jr., Director Planning & Urban Development
Alexander Jaegerman, Chief Planner
P. Samuel Hoffses, Chief, Inspection Services
Malcolm Ward, Code Enforcement Officer
David Lourie, Corporation Counsel
Each Case Folder

APPLICATION FOR PERMIT

B.O.C.A. USE GROUP

B.O.C.A. TYPE OF CONSTRUCTION

ZONING LOCATION PORTLAND, MAINE Nov. 1, 1984

To the CHIEF OF BUILDING & INSPECTION SERVICES, PORTLAND, MAINE

The undersigned hereby applies for a permit to erect, alter, repair, demolish, move or install the following building, structure, equipment or change use in accordance with the Laws of the State of Maine, the Portland B.O.C.A. Building Code and Zoning Ordinance of the City of Portland with plans and specifications, if any, submitted herewith and the following specifications:

LOCATION 70 Abby Lane Fire District #1 , #2

1. Owner's name and address Joseph A. DiPietro - same Telephone 797-3868.

2. Lessee's name and address Telephone

3. Contractor's name and address Telephone

..... No. of sheets

Proposed use of building No. families

Last use No. families

Material No. stories Heat Style of roof Roofing

Other buildings on same lot

Estimated contractual cost \$.....

FIELD INSPECTOR—Mr. Appeal Fees \$ 50.00

@ 775-5451 Base Fee

..... Late Fee

TOTAL \$.....

Appeal Sustained 11-29-84

Change of use from 1 to accessory dwelling for the elderly or handicapped person (homeowner)

Stamp of Special Conditions

This application is preliminary, to determine the question of zoning appeal. In the event an appeal is sustained the applicant will furnish complete information, estimated cost and pay legal fee.

NOTE TO APPLICANT: Separate permits are required by the installers and subcontractors of heating, plumbing, electrical and mechanicals.

DETAILS OF NEW WORK

Is any plumbing involved in this work? Is any electrical work involved in this work?

Is connection to be made to public sewer? If not, what is proposed for sewage?

Has septic tank notice been sent? Form notice sent?

Height average grade to top of plate Height average grade to highest point of roof

Size, front depth No. stories solid or filled land? earth or rock?

Material of foundation Thickness, top bottom cellar

Kind of roof Rise per foot Roof covering

No. of chimneys Material of chimneys of lining Kind of heat fuel

Framing Lumber—Kind Dressed or full size? Corner posts Sills

Size Girder Columns under girders Size Max. on centers

Studs (outside walls and carrying partitions) 2x4-1 1/2" O. C. Bridging in every floor and flat roof span over 8 feet.

Joists and rafters: 1st floor 2nd 3rd roof

On centers: 1st floor 2nd 3rd roof

Maximum span: 1st floor 2nd 3rd roof

If one story building with masonry walls, thickness of walls? height?

IF A GARAGE

No. cars now accommodated on same lot to be accommodated number commercial cars to be accommodated

Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building?

APPROVALS BY: DATE MISCELLANEOUS

BUILDING INSPECTION—PLAN EXAMINER Will work require disturbing of any tree on a public street?

ZONING:

BUILDING CODE: Will there be in charge of the above work a person competent

Fire Dept.: to see that the State and City requirements pertaining thereto

Health Dept.: are observed?

Others:

Signature of Applicant Joseph A. DiPietro Phone # same

Type Name of above Joseph DiPietro 2 3 4

Other

and Address

FIELD INSPECTOR'S COPY

APPLICANT'S COPY

OFFICE FILE COPY



APPLICATION FOR PERMIT
 DEPARTMENT OF BUILDING INSPECTIONS SERVICES
 ELECTRICAL INSTALLATIONS

Date Oct 8th, 19 84
 Receipt and Permit number 06037

To the CHIEF ELECTRICAL INSPECTOR, Portland, Maine:

The undersigned hereby applies for a permit to make electrical installations in accordance with the laws of Maine, the Portland Electrical Ordinance, the National Electrical Code and the following specifications:

LOCATION OF WORK: 70 Abby Lane
 OWNER'S NAME: Joseph DiPietro ADDRESS: lives there

OUTLETS:		RECEPTACLES	SWITCHES	PLUGMOLD	ft. TOTAL	1-30	3.00
FIXTURES: (number of)		Incandescent	Flourescent	(not strip) TOTAL			
		Strip Flourescent		ft.			
SERVICES: existing 200 amp service		Overhead	Underground	Temporary	TOTAL amperes		
METERS: (number of)		1					.50
MOTORS: (number of)		Fractional	1 HP or over				
RESIDENTIAL HEATING:		Oil or Gas (number of units)					
		Electric (number of rooms)	3				3.00
COMMERCIAL OR INDUSTRIAL HEATING:		Oil or Gas (by a main boiler)					
		Oil or Gas (by separate units)					
		Electric Under 20 kws	Over 20 kws				
APPLIANCES: (number of)		Ranges	Water Heaters				
		Cook Tops	Disposals				
		Wall Ovens	Dishwashers				
		Dryers	Compactors				
		Fans	Others (denote)				
		TOTAL	combination of range, refrigerator and cook top				1.50
MISCELLANEOUS: (number of)		Branch Panels	1				1.00
		Transformers					
		Air Conditioners Central Unit					
		Separate Units (windows)					
		Signs 20 sq. ft. and under					
		Over 20 sq. ft.					
		Swimming Pools Above Ground					
		In Ground					
		Fire/Burglar Alarms Residential					
		Commercial					
		Heavy Duty Outlets, 220 Volt (such as welders) 30 amps and under					
		over 30 amps					
		Circus, Fairs, etc.					
		Alterations to wires					
		Repairs after fire					
		Emergency Lights, battery					
		Emergency Generators					
FOR ADDITIONAL WORK NOT ON ORIGINAL PERMIT						INSTALLATION FEE DUE:	
FOR REMOVAL OF A "STOP ORDER" (304-16.b)						DOUBLE FEE DUE:	
						TOTAL AMOUNT DUE:	8.00

INSPECTION:
 Will be ready on _____, 19__ ; or Will Call xx
 CONTRACTOR'S NAME: Mancini Electric
 ADDRESS: 179 Sheridan St.
 TEL.: _____
 MASTER LICENSE NO.: on file SIGNATURE OF CONTRACTOR: [Signature]
 LIMITED LICENSE NO.: _____

INSPECTOR'S COPY — WHITE
 OFFICE COPY — CANARY
 CONTRACTOR'S COPY — GREEN

CITY OF PORTLAND, MAINE
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Jacqueline Cohen
Secretary

11/16/84
kat