

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



MICHAEL E. WESTORT
Chairman

EUGENE S. MARTIN
Secretary

JACQUELINE COHEN
TIMOTHY E. FLAHERTY
THOMAS J. MURPHY
MERRILL S. SELTZER
GAIL D. ZAYAC

July 15, 1983

Christy Associates
P. O. Box 2990
South Portland, Maine 04106

RE: Lot # 9 Wendy Way, Appeal

Dear Mr. Christy:

Attached is the decision of the Board of Appeals regarding your petition to change the front set back requirements at the above named location. Please note that your appeal was granted.

Very truly yours,

Malcolm G Ward
Zoning Enforcement Officer

MGN/t

CITY OF PORTLAND, MAINE
BOARD OF APPEALS

SPACE AND BULK VARIANCE APPEAL

I. Findings of Fact

- A. Applicant Christy Associates
- B. Property Location Lot 9 Wendy Way
- C. Applicant's Interest in Property:
 Owner
 Tenant
 Other _____
- D. Property Owner same
- E. Owner's Address P. O. Box 2770, South Portland, Maine 04106
- F. Zone (Circle One):
R-1 R-2 R-3 R-4 R-5 R-6 R-4
R-P B-1 B-2 P-3 A-B
I-P I-1 I-2 I-2b I-3 I-3b I-4
RPZ W-1
- G. Site Plan Approval required _____
- H. Present Use of Property dwelling with attached garage
- I. Section(s) to Which Variance Related 14-77.4
- J. Reasons Why Permit Cannot be Issued A 23 ft. 6 in. front yard
set back rather than the 25 ft. min. required.
- K. Requested Variance Would Permit Permission for a 23 ft. 6 in.
front yard set back rather than the 25 ft. minimum required.

- L. Notice Sent to _____ Adjacent Property Owners

II. Appearances

A. Those Advocating Variance

B. Those Opposing Variance

T. W. Christy - (Cante Assoc)

(Attachments, As Necessary)

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

IV. Reasons for Decisions - Undue Hardship (The following checklist relates with the Board of Appeals hardship definitions for Space 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

Yes/Agreement with statement

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 7/14/83, 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.b. (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

Michael E. Weyant Chairman
Caroline J. Martin
Gail D. Zagac
Roseanne L. Weber
Merrill A. Kitzel
Joyce G. Clapton
Thomas J. Murphy

CITY OF PORTLAND, MAINE
IN THE BOARD OF APPEALS

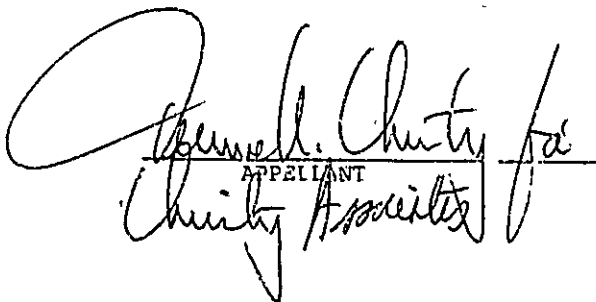
SPACE AND BULK VARIANCE (OTHER THAN FOR DWELLING UNIT CONVERSIONS)

Christy Associates , owner of property at Lot 9 Wendy Way
under the provisions of Section 14-473 of the Zoning Ordinance of the City
of Portland, hereby respectfully petitions the Board of Appeals to permit:

A 23 ft. 6 in. front yard set back rather than the 25 ft. minimum required by Section 14-77.4
of the ordinance applying to the R-2 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 14-473 (C) (2) A 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 attach-
ed hereto as Exhibit A.


APPELLANT
Christy Associates

14-473 (C) (2) A

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.

Applicant: CHRISTY ASSOC.

Date: 5/2/83

Address: LOT 29 WENDY WAY

Assessors No.:

CHECK LIST AGAINST ZONING ORDINANCE

✓ Date - NEW

✓ Zone Location - R-2

✓ Interior or corner lot -

~~40 ft. setback area (Section 21) -~~

✓ Use - 24' x 35' DW. W/ ATTACHED 20' x 20' GARAGE

✓ Sewage Disposal PUBLIC

✓ Rear Yards - 25' ± - 25' MIN.

✓ Side Yards - 14' - 14' - 14' - 10' MIN.

~~10' ±~~ ✓ Front Yards - 25' - 25' MIN.

✓ Projections - NONE

✓ Height - TWO STORY - 35' MAX.

✓ Lot Area - 9800' ± - 8000' ± MIN.

✓ Building Area - 1168' ± - 1960' ± MAX.

✓ Area per Family - 9800' ± - 8000' ± MIN.

✓ Width of Lot - 80' - 80' MIN.

✓ Lot Frontage 80' - 50' MIN.

✓ Off-street Parking - 16.5

~~Loading Bays~~

PERMIT ISSUED
WITH LETTER

~~Site Plan -~~

~~Shoreland Zoning -~~

~~Flood Plains -~~

768
400
1168

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



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Chairman

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Secretary

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TIMOTHY E. FLAHERTY
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MERRILL S. SELTZER
GAIL D. ZAVAC

All persons interested either for or against this Space & Bulk Variance Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday, July 14, 1983 at 3:30 p.m. This notice of required public hearing has been sent to the owners of property directly abutting, and directly across a street or alley from the property as required by Ordinance.

Christy Associates, owner of the property at Lot 9 Wendy Way, under the provisions of Section 14-473 of the Zoning Ordinance of the City of Portland, Maine hereby respectfully petitions the Board of Appeals to permit a 23 ft. 6 in. front yard set back, at the above named location, rather than the 25 ft. minimum required by Section 14-77.4 of the ordinance applying to the R-2 Residential Zone in which this property is located.

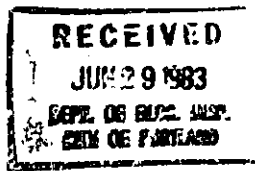
LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-473 of the Zoning Ordinance have been met.

Eugene S. Martin
Secretary

394-A-52 - Cassandra L. & Joseph M. Cloutier Jts. - 35 Curtis Rd., City 04103
394-A-53 & 54 - Louis A. & Jeanette R. Proano Jts. - 45 Curtis Rd., City 04103

6/29/83

Board of Appeals
City of Portland
Portland, Maine



Dear Board Members:

I wish to request a variance of the front yard setback ordinance of 25' as required.

While a Home Being constructed on lot #9, Wendy (1104), Tall Oaks Subdivision, the concrete wall was placed at a distance of 23'6" from the front property line. As the area is being developed, one of the front property line stakes was accidentally demolished, and when it was replaced, the stake was left approximately 1'-6", thus, causing the foundation to be off by the same distance.

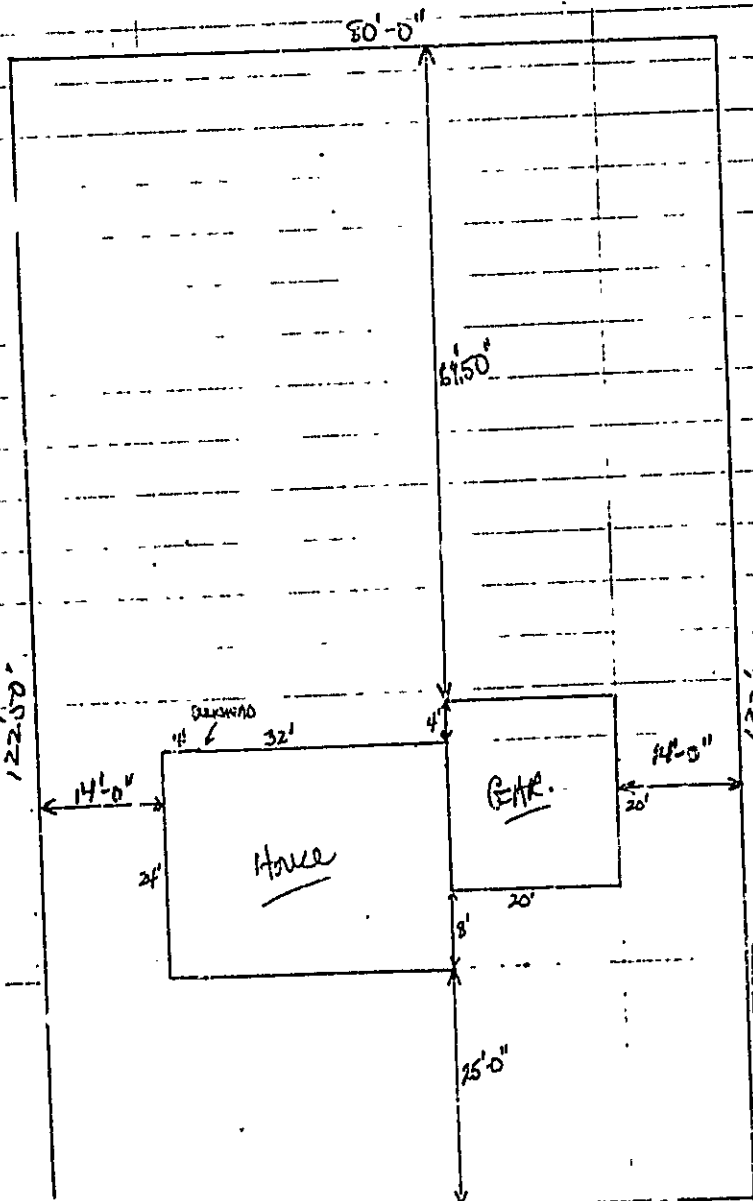
The Home located on lot #9 is presently 75% complete and the error was recently discovered while doing road profile checks.

Your help in this situation is appreciated.

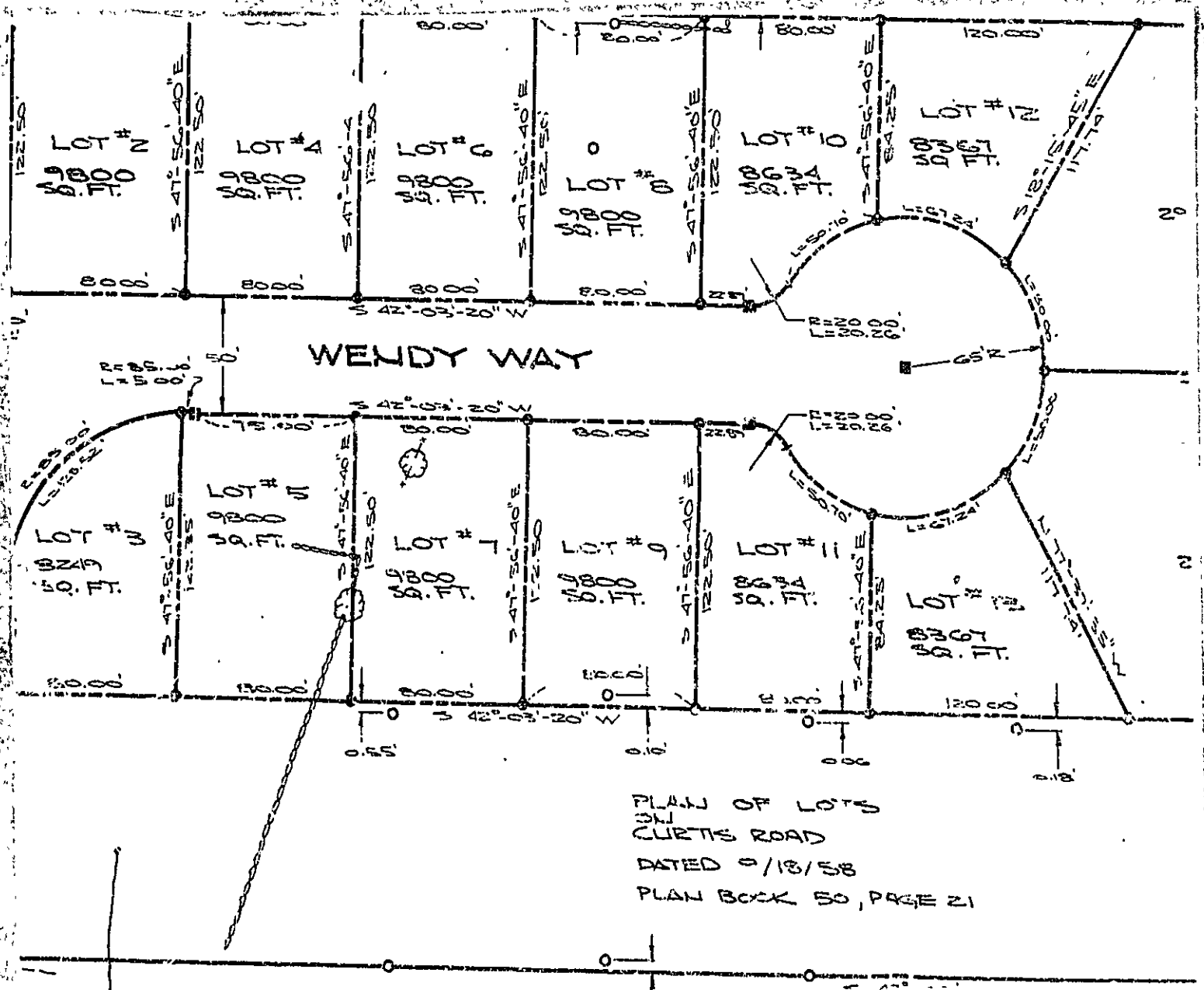
Sincerely yours,
Wendy W. Christy
Christy Associates

SCALE: 1/8" = 2'-0"

lot # 9
TALL OAKS
77th GOUVERN



RECEIVED
APR 29 1983
DEPT. OF BLDG. INSP.
CITY OF PORTLAND



WENDY WAY

PLAN OF LOTS
 ON
 CURTIS ROAD
 DATED 9/18/58
 PLAN BOOK 50, PAGE 21

CITY OF PORTLAND, MAINE
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TIMOTHY E. FLAHERTY
THOMAS J. MURPHY
DRILL S. SELTZER
GAIL D. ZAYAC

June 29, 1983

Lot 9 Wendy Way

Christy Associates
P. O. Box 2770
South Portland, Maine 04106

Dear Sir:

Amendment #1 to Permit 83/#360 to permit a 23 ft. 6 in. front yard set back, at the above named location, rather than the 25 ft. minimum required by Section 14-77.4 of the ordinance applying to the R-2 Residential Zone in which this property is located.

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 317, City Hall, to file the appeal on forms which are available here. A fee of \$50.00 for a Special Appeal shall be paid at this office at the time the appeal is filed. If fees have been paid, and appeal filed prior to this letter, then consider this letter as a matter of formality. Section 14-473.

Very truly yours,

Malcolm G. Ward
Malcolm G. Ward
Zoning Enforcement Officer

MGW/jmr

6/29/83

Board of Appeals
City of Portland
Portland, Maine



Dear Board Members:

I wish to request a variance of the front yard set back ordinance of 25' as required.

While a house being constructed on lot #9, Wendy Way, Tall Oaks Subdivision, the concrete wall was placed at a distance of 23'6" from the front property line. As the area is being developed, one of the front property line stakes was accidentally demolished and when it was replaced, the stake was off approximately 1'-6", thus, causing the foundation to be off by the same distance.

The home located on lot #9 is presently 75% complete and the error was recently discovered while doing road profile checks.

Your help in this situation is appreciated.

Sincerely yours,
Deborah W. Christy
Christy Associates



CITY OF PORTLAND

JOSEPH E GRAY, JR.
DIRECTOR OF PLANNING & URBAN DEVELOPMENT

May 2, 1983

Christy Assoc.
P.O. Box 2770
South Portland, Maine

Re: Ref. Lot#9 Wendy Way

Dear Sir:

Your application for a building permit to construct a 24 x 32 single family dwelling with a 20 x 20 garage has been reviewed and a building permit is herewith issued subject to the following building code requirements.

1. 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.
2. The sill of all doors openings between the garage and dwelling shall be raised not less than 4 inches above the garage floor. The door opening protectives shall be 13/4 inch solid core wood doors or approved equivalent.

If you have any questions on this requirement please call this office.

Sincerely,

P. Samuel Hoffses
Chief of Inspection Services

APPLICATION FOR PERMIT

PERMIT ISSUED

B.O.C.A. USE GROUP B.O.C.A. TYPE OF CONSTRUCTION 00360

MAY 4 1983

ZONING LOCATION R-2 PORTLAND, MAINE 4-29-83

CITY OF PORTLAND

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:

- 1. LOCATION Lot no. 9 Tall Oaks Sub Division (Lot 9 Wendy Way) Fire District #1 [] #2 []
2. Owner's name and address Christy Assoc., P.O. Box 2770, So. Portland Telephone 79790174
3. Designer's name and address Telephone XXXX 799-1252
4. Contractor's name and address Christy Assoc. Telephone

Proposed use of building dwelling with garage No. of sheets
Last use No. families 1
Material No. stories Heat Style of roof Roofing
Other building on same lot
Estimated contractual cost \$ 46,000.00

FIELD INSPECTOR - Mr. @ 775-5451
Appeal Fees
Base Fee 240.00
Late Fee
TOTAL 240.00

To construct a 24 X 32 single family dwelling with attached 20 X 20 garage. As per plans 2 sheets with plot plans.

Stamp of Special Conditions

PERMIT ISSUED WITH LETTER

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

DETAILS OF NEW WORK

Is any plumbing involved in this work? YES
Is any electrical work involved in this work? YES
Is connection to be made to public sewer? YES
Has septic tank notice been sent?
Form notice sent?
Height average grade to top of plate XXXX 13'
Height average grade to highest point of roof 17'
Size, front depth No. stories solid or filled land? Solid earth or rock? earth
Material of foundation concrete Thickness, top 10" bottom 10" cellar fill cellar
Kind of roof pitch Rise per foot 12/4 Roof covering asphalt shingles
No. of chimneys 1 Material of chimney brick of lining clay Kind of heat electric fuel
Framing Lumber Kind spruce Dressed or full size? Corner posts Sills
Size Girder Columns under girders Size Max. on centers
Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.
Joists and rafters: 1st floor 2 X 10 2nd 2 X 10 3rd roof
On centers: 1st floor 16 2nd 16 3rd roof
Maximum span: 1st floor 1st 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 1 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? No
ZONING: D.A. M.A. 5/2/83
BUILDING CODE: Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto are observed? YES
Fire Dept.:
Health Dept.:
Others:

Signature of Applicant [Signature] Phone # SAME
Type Name of above Christy Assoc. 1 [] 2 [] 3 [] 4 []
for Christy Assoc. Other:
and Address

PERMIT ISSUED WITH LETTER

APPLICANT'S COPY OFFICE FILE COPY

Permit no. 83/360

Location Lot 19 Mendocino Way

Owner Christy Associates

Date of permit 4-29-83

Approved 5-4-83

Dwelling single family

Garage

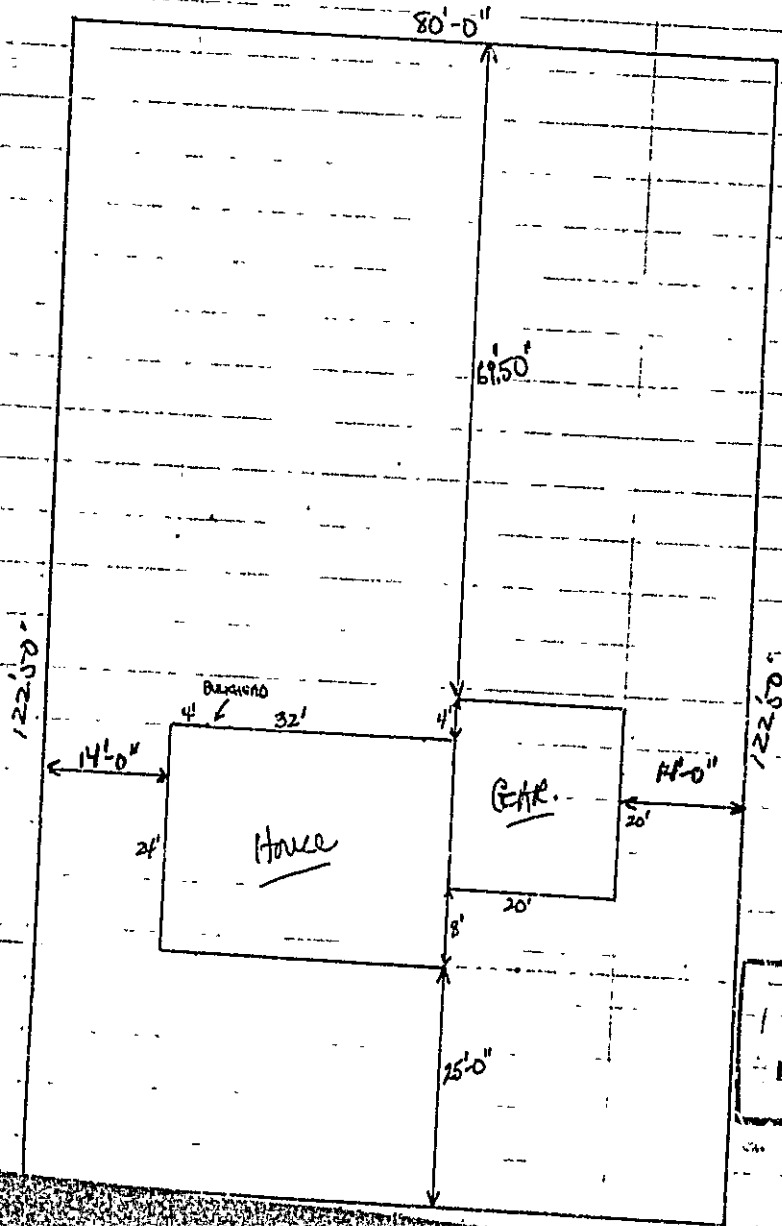
Alteration

NOTES

5/24/83
Working on
6/1/83 Section of W
Application prepared
for review of 20 minutes
I will call the applicant in
particular of this
I did not call for a meeting
of the committee but
I have not yet
placed yet

Lot # 9
TALL OAKS
17^c GOUVERN

SCALE: $\frac{1}{8}'' = 2'-0''$



RECEIVED
APR 29 1983
DEPT. OF BLDG. INSP.
CITY OF PORTLAND