



Planning and Development Department
Zoning Board of Appeals
Conditional Use Appeal Application

874 8721 4K

784 874 8486

156

Applicant Information:

Name Charles B. Messer

Business Name

P.O. Box 1980

Address

Portland, Me. 04104

207-252-7482

Telephone

Fax

Applicant's Right, Title or Interest in Subject Property:

Owner
(e.g. owner, purchaser, etc.):

Current Zoning Designation:

R-3

Existing Use of Property:

~~Family~~
1 (SINGLE FAMILY)

(There are several multi family units in this area)

Subject Property Information:

1476 Forest Ave.

Property Address

298-B-023

Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

Name

Address

SEP 14 2009

Telephone

Fax

Conditional Use Authorized by Section 14 - 88(a)(2)

Type of Conditional Use Proposed:

In law unit

Standards:

Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines that:

- NO (a) There are unique or distinctive characteristics or effects associated with the proposed conditional use;
- No (b) There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and
- No (c) Such impact differs substantially from the impact which would normally occur from such a use in that zone.

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

The undersigned hereby makes application for a conditional use permit as above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

[Signature]
Signature of Applicant

8-22-09
Date

3

members present: Philip Sancier, Bill Getz, SARA Moppin, Trish McAllister,
Gordon Smith - Peter Coyne -

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Members Absent: Jill Hunter

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, October 1, 2009 at 6:30 p.m. on the second floor in room 209 at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeal:

called to order at: 6:30 pm

1. New Business:

A. Conditional Use Appeal:

6-φ 1472-1478 Forest Avenue, Charles B. Messer, owner, Tax Map 298, Block B, Lot 023, R-3 Residential Zone: The appellant is seeking a Conditional Use Appeal under section 14-88(a)(2) to add an accessory dwelling unit to his single family dwelling. Representing the appeal is the owner.

2. Adjournment: 6:50 pm

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk
From: Marge Schmuckal, Zoning Administrator
Date: October 5, 2009
RE: Action taken by the Zoning Board of Appeals on October 1, 2009.

Members Present: Phil Saucier (chair), Gordon Smith (secretary), Sara Moppin, Peter Coyne, Trish McAllister, and William Getz.

Members Absent: Jill Hunter

1. New Business:

A. Conditional Use Appeal:

1472-1478 Forest Avenue, Charles B. Messer, owner, Tax Map 298, Block B, Lot 023, R-3 Residential Zone: The appellant is seeking a Conditional Use Appeal under section 14-88(a)(2) to add an accessory dwelling unit to his single family dwelling. Representing the appeal is the owner. **The Board voted 6-0 to grant the conditional use appeal.**

Enclosure:

Agenda of October 1, 2009
Original Zoning Board Decision
One dvd
CC: Joseph Gray, City Manager
Penny St. Louis Littell, Director, Planning & Urban Development
Alex Jaegerman, Planning Division
T.J. Martzial, Housing & Neighborhood Services Division

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

R-3 Residential Zone Accessory Unit:

Conditional Use Appeal

DECISION

Date of public hearing: October 1, 2009

Name and address of applicant: Charles Messer
1476 Forest Ave.
Portland, ME

Location of property under appeal: 1476 Forest Ave.

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

Charles Messer, Applicant
Michael ~~Bowdler~~ Bowdler (proponent)

Exhibits admitted (e.g. renderings, reports, etc.):

Findings of Fact and Conclusions of Law:

Applicant is proposing to add an accessory dwelling unit to his single family home in which he resides. The total floor area of the house is 3,456 sq. ft. The floor area of the accessory unit would be 583 sq. ft., which equals 17% of the gross floor area of the house. There will be no open outside stairways or fire escapes above the ground floor. The lot size is 13,168 sq. ft.

A. Conditional Use Standards pursuant to Portland City Code §14-88(a)(2):

1. The accessory unit shall be no more than thirty (30) percent of the gross floor area of principal building and shall have a minimum floor area four hundred (400) square feet; gross floor area shall exclude any floor area that has less than two-thirds of its floor-to ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

Drawings & testimony indicate compliance

2. There shall be no open outside stairways or fire escapes above the ground floor.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

satisfied per drawings & testimony

3. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

Satisfied per drawings & testimony

4. A minimum lot size of six thousand five hundred (6,500) square feet of land area shall be required.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

Per testimony + plans

5. No dwelling unit shall be reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

~~Per testimony + plans~~ ~~Dwelling~~ ~~unit~~ ~~will~~ ~~be~~ ~~reduced~~ ~~in~~ ~~size~~ ~~to~~ ~~less~~ ~~than~~ ~~one~~ ~~thousand~~ ~~(1,000)~~ ~~square~~ ~~feet~~ ~~of~~ ~~floor~~ ~~area~~ ~~, exclusive of common areas and storage in basement or attic.~~

Principal unit will remain over 1,000 sq. ft., per testimony.

6. Parking shall be provided as required by division 20 of this article: 1 off-street parking space per new unit (14-332(a)(2)).

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

7 or 8 Available Spaces per
Drawing + testimony

7. Either the accessory unit or principal unit shall be occupied by the lot owner, except for bona fide temporary absences.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

accessory ~~unit~~ will be occupied by
Applicant/owner as primary residence

B. Conditional Use Standards pursuant to Portland City Code §14-474(c)(2):

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

Yes ☐ No ☒

Reason and supporting facts:

standard single family house w/ accessory
unit per plans / testimony

2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.

Yes ☐ No ☒

Reason and supporting facts:

existing use that exists

3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

Yes ____ No ☒

Reason and supporting facts:

No evidence of different impacts

Conclusion: (check one)

☒ Option 1: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application.

☐ Option 2: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied, and that while not all of the conditions (1 through 3) described in section B above are present, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

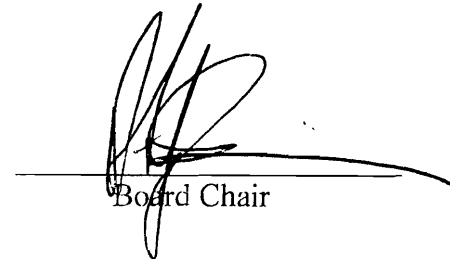
☐ Option 3: The Board finds that not all of the standards (1 through 7) described in section A above have been satisfied and/or that all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

Please note that, pursuant to Portland City Code 14-88(a)(2)(i), if approved the project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:

1. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building; and

2. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

Dated: 10.1.09


Board Chair

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

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1. New Business:

A. Conditional Use Appeal:

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2. Adjournment:

7 Sep 09

Charles B Messer
1476 Forest Ave
PO Box 1980
Portland Me 04104
Phone 207 252 7482

Ms. Ann Machado Zoning Specialist
Planning & Development Department
Housing & Neighborhood Division
Portland City Hall
389 Congress Street Portland Maine 04101

Dear Ann:

This applies to have an Inlaw Unit at 1476 Forest Avenue, Portland Maine.
The unit would occupy the upper floor of the rear block 'B' shown on the
drawings and its floor area would amount to 17 % of the remaining floor area of
the remaining principle building,

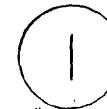
Enclosed is a check for \$ 100 and eleven copies of the following documents:

This letter
Form of application
Building photograph from front
Ditto from above
Ditto from north
Site plan
Bird's eye view diagram
Main floor plan
Upper floor plan
Deed of ownership
City tax block plan

SEP 14 2009

Referring specifically to the Code of Ordinances handed to me the proposed
Inlaw unit would conform exactly with these regulations as follows:

- 2 a. The unit would be in floor area 583 sf which would amount to
17 % of the remaining principle living space floor area of 3456 sf.
All of the unit's floor would be above any adjacent grade level.
- b. There would be no outside stairways or fire escapes above ground
level.
- c. There would be no alterations of any kind to the exterior of the
existing building so the exterior of the building would remain the
style of a single family dwelling.



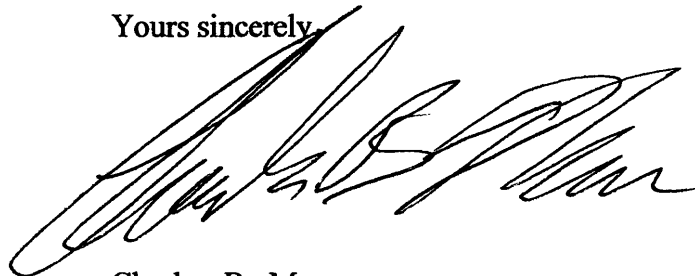
- d. The lot size is 13,168 s.f. well above the required 6,500 s.f.
- e. The principle dwelling unit's remaining floor area would be 3039 less 583 equals 2456 square feet..
- f. The space available for parking amounts to more than twice the three vehicles required.
- g. The exterior of the building will stay exactly the same as is existing which is compatible with a single family dwelling. The parking spaces are already landscaped to screen from The neighboring property. The Inlaw Unit will be occupied by The owner only.

Referring specifically to the "Standards" included on the application sheet
(a) (b) (c):

No part of the Inlaw Unit would adversely affect the existing Environment or well being of the surrounding property or public. See enclosed documents.

I appreciate the close attention you are giving this project. At your earliest convenience please let me know of any further data you may require.

Yours sincerely,



Charles B. Messer

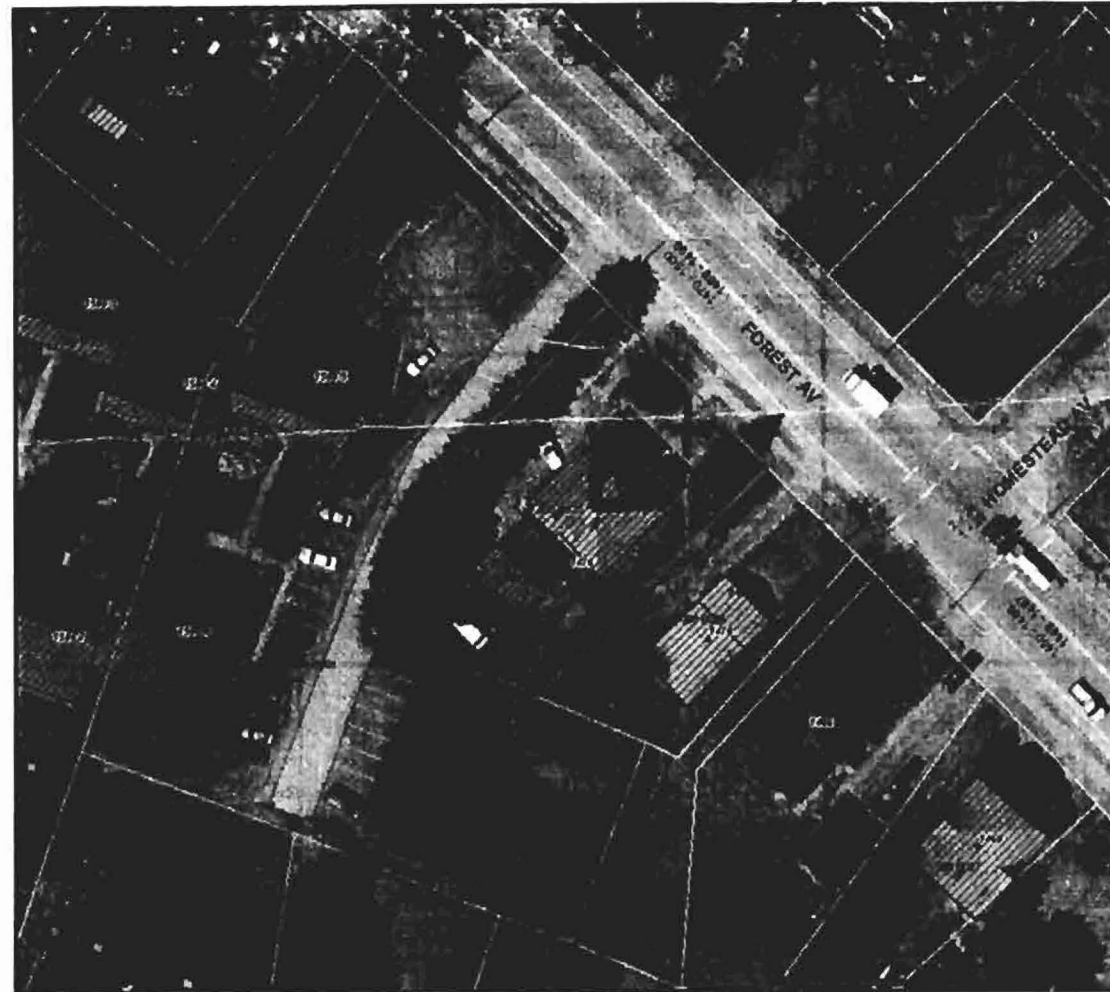
CBM/mb

PS: The only construction involved with this proposal is to add kitchen equipment into the proposed Inlaw Unit. So the present single family exterior appearance would not be compromised in any way.



5-1-12 1/12/10

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City of Portland
GIS

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City of Portland
389 Congress St.
Portland, Maine
04101



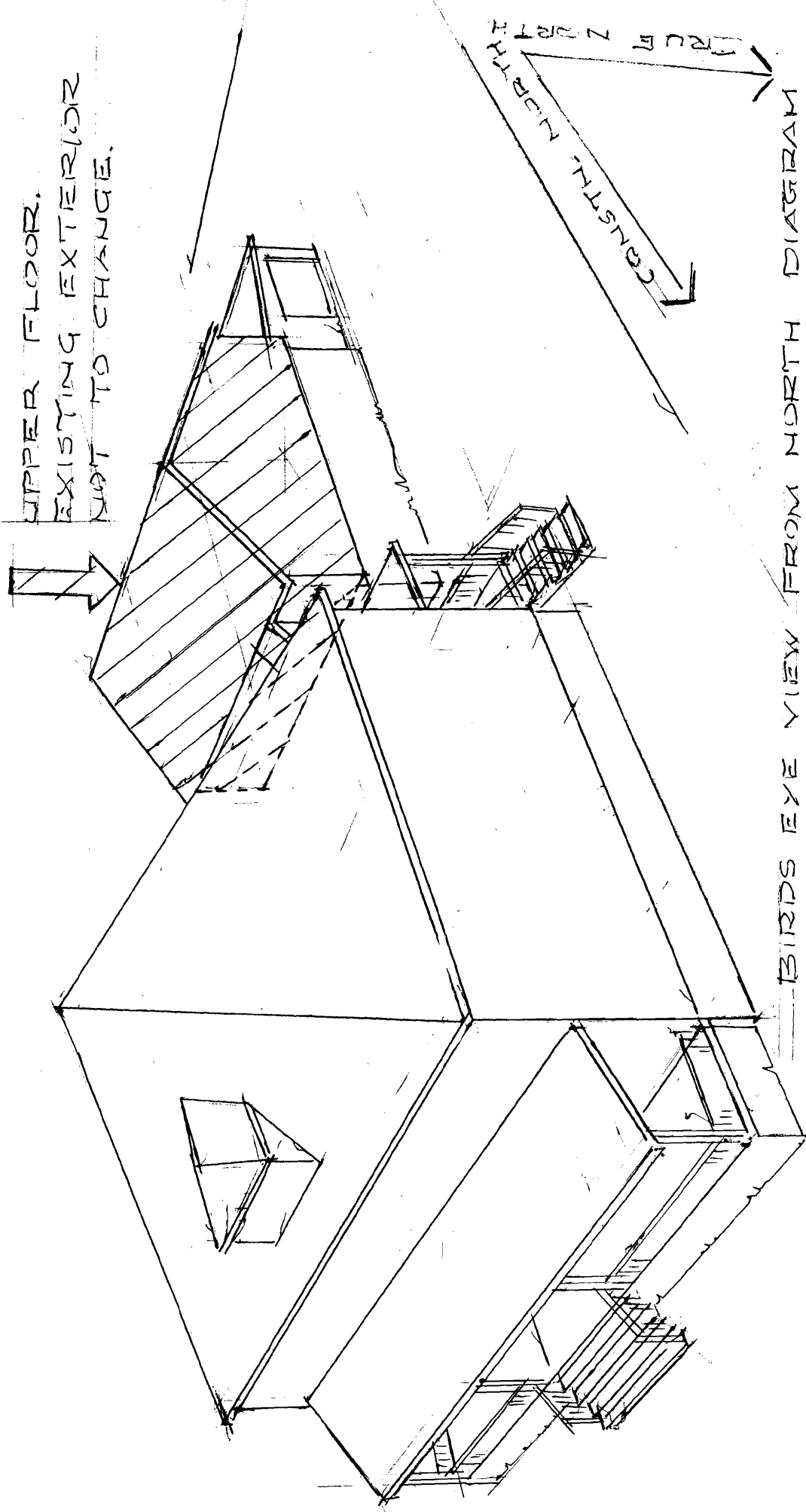
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6

PROPOSED INLAW UNIT

UPPER FLOOR.
EXISTING EXTERIOR
NOT TO CHANGE.

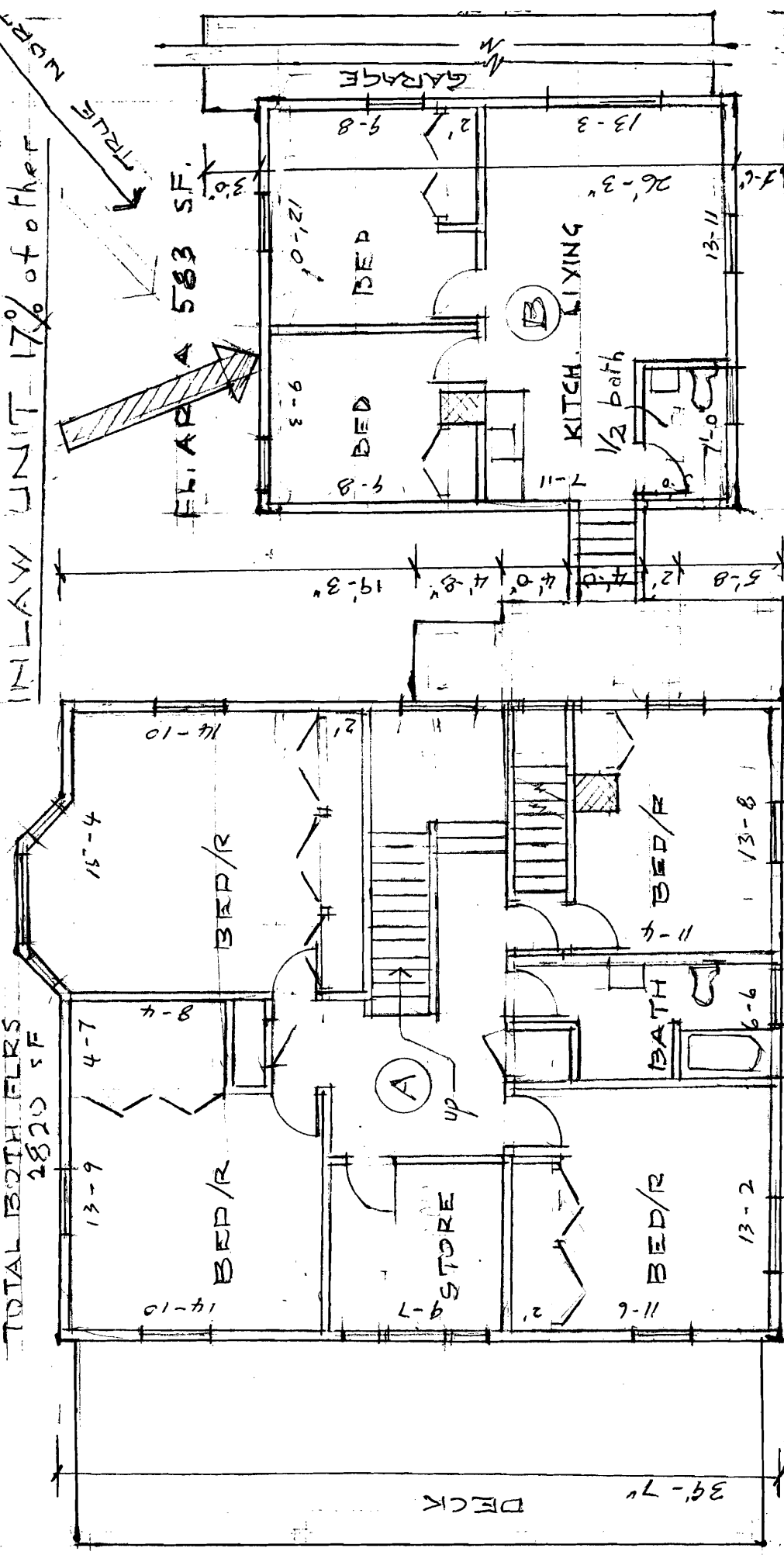


BIRDS EYE VIEW FROM NORTH DIAGRAM

CONDITIONAL ZONING USE APPEAL APPLICATION DATED 21 AUG 09
FROM: CHARLES B MESSER 1476 FOREST AVE PORTLAND ME
PO BOX 198 PORTLAND ME PHONE 207 252 7482 OWNER
PROPOSED INLAW UNIT

PROPOSED
INLAY UNIT 17% of other

FL. AREA. 1410 SF
TOTAL BOTH FLRS 2820 SF



PLAN SECOND FLOOR SCALE $\frac{1}{8}'' = 1'-0''$

CONDITIONAL ZONING USE APPEAL APPLICATION DATED 21 AUG 99
FROM - CHARLES B MESSER 1476 FOREST AVE PORTLAND ME
PO BOX 198 PORTLAND ME PHONE 207 252 7482 OWNER. (10)
PROPOSED INLAY UNIT

0014546

BK14572PG315

WARRANTY DEED

Know All Men By These Presents That I, George M. Townsend
 of 171 Allen Avenue, Portland,
 County of Cumberland and State of Maine,
 for consideration paid, grant to Charles B. Messer
 of 34 Galvin Street, Portland,
 County of Cumberland and State of Maine
 with WARRANTY COVENANTS:

A certain lot or parcel of land together with any buildings thereon situated in
 Portland County of Cumberland
 and State of Maine, more particularly described in Exhibit A attached hereto and
 incorporated herein by reference.

In Witness Whereof, I have hereunto set my hand(s) this 25th day of
 February, 1999

Witness

George M. Townsend

State of Maine
 County of Cumberland ss.

On this 25th day of February, 1999, personally appeared before me the
 above named George M. Townsend

and acknowledged the foregoing to be his/her/their free act and deed.

Notary Public, Attorney at Law

Return to: NORTHEAST LAND TITLE INC.
 4 Canal Plaza
 Portland, ME 04101

MAINE REAL ESTATE TAX PAID