

dark not  
part of paint

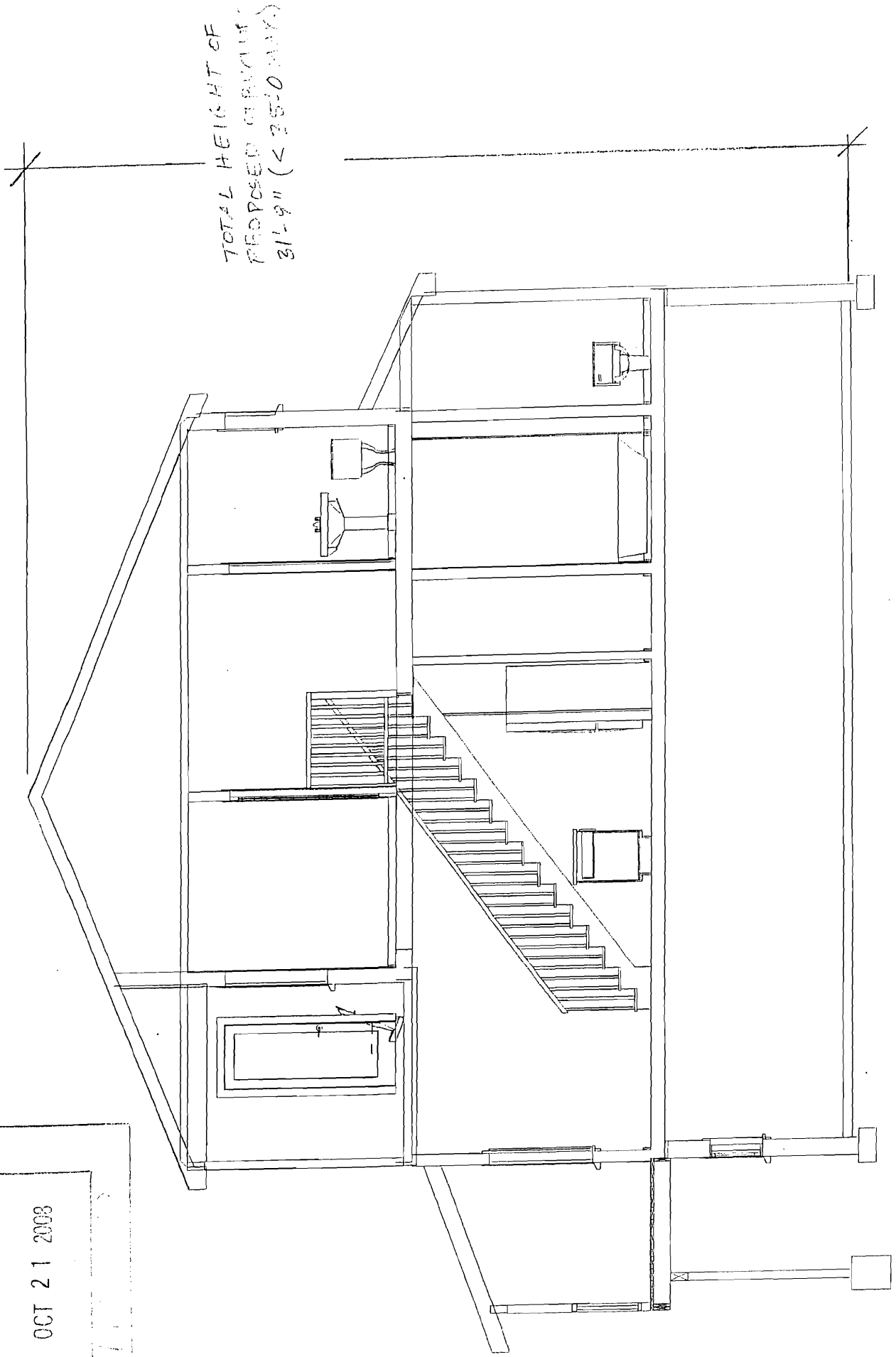
dark not  
part of paint



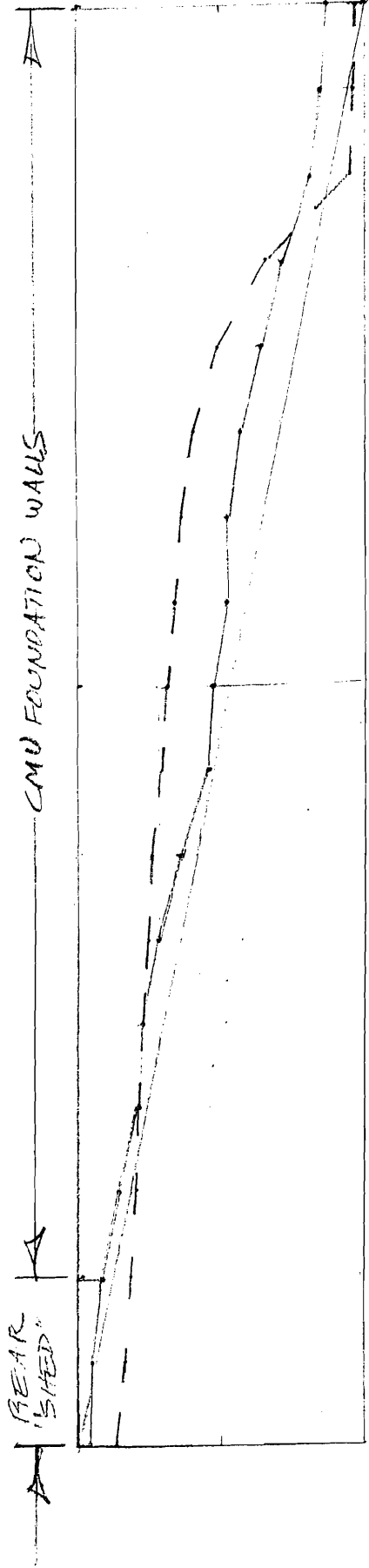
<http://www.portlandassessor.com/images/pictures/01028501.jpg>

9/16/2008

DEVELOPMENT DIVISION  
CITY OF ALBUQUERQUE  
OCT 21 2003



TOTAL HEIGHT OF  
PROPOSED STRUCTURE  
31'-9" (< 35'-0" MAX)



above 19' below  
 1' below 26' below

— WEST ELEVATION  
 - - - EAST ELEVATION  
 / AVERAGE GRADE

$\frac{1}{4}'' = 1'-0$

TORRINGTON  
 AVENUE

OCT 23 1963



2006 Permit

City of Portland, Maine - Building or Use Permit Application  
389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Location of Construction: 38 TORRINGTON AVE <i>Penk</i>		Owner Name: ASHTON RICHARD & PATRICIA	Owner Address: 50 SILVERHILL RD <i>Penk</i>	Phone: 
Business Name: <i>De Land</i>		Contractor Name: Horizon Builders, Inc.	Contractor Address: PO Box 802 Portland	Phone: 2078799787
Lessee/Buyer's Name		Phone:	Permit Type: CITY OF PORTLAND Alterations - Dwellings	Zone: <i>JE2</i>
Fast Use: Single Family Home	Proposed Use: Single Family Home/ repair and replace deteriorated Decks Remove partitions within same foot print		Permit Fee: \$381.00	Cost of Work: \$40,000.00
Proposed Project Description: repair and replace deteriorated Decks Remove partitions within same foot print			CEO District: 2	
			FIRE DEPT: <input type="checkbox"/> Approved <input checked="" type="checkbox"/> Denied <i>N/A</i> Signature: <i>[Signature]</i>	
			INSPECTION: Use Group: <i>12-3</i> Type: <i>SB</i> <i>IRC 2003</i> Signature: <i>[Signature]</i>	
			PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Signature: Date:	
Permit Taken By: Idobson	Date Applied For: 05/03/2006		Zoning Approval	
This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.  Building permits do not include plumbing, septic or electrical work.  Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..		Special Zone or Reviews	Zoning Appeal	Historic Preservation
		<input type="checkbox"/> Shoreland <i>house is w/in 250' - not increasing footprint or volume - replaving existing decks</i> <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan  Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> <i>OK w/ conditions ASAN</i> Date: <i>5/4/06</i>	<input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied Date:	<input checked="" type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied <i>JBW</i> Date:

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE



# General Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>38 Torrington Ave Peaks Island</u>		
Total Square Footage of Proposed Structure <u>1000 Sq. Ft.</u>		Square Footage of Lot <u>70</u>
Tax Assessor's Chart, Block & Lot Chart# <u>84</u> Block# <u>S</u> Lot# <u>6</u>	Owner: <u>Patricia &amp; Richard Ashton</u>	Telephone: <u>508-473-7862</u>
Lessee/Buyer's Name (If Applicable)  <u>N/A</u>	Applicant name, address & telephone: <u>Bill Childs</u> <u>Horizon Builders Inc.</u> <u>PO Box 802 Portland</u> <u>ME 04104</u> <u>(207) 252-3551</u>	Cost Of Work: <u>\$40000</u> Fee: <u>\$381.00</u> C of O Fee: \$
Current Specific use: _____ If vacant, what was the previous use? _____ Proposed Specific use: _____  Project description: <u>Repair/Replace deteriorated Decks, Siding &amp; Trim.</u> <u>Remove Partitions</u>		
Contractor's name, address & telephone: <u>Horizon Builders Inc.</u> Who should we contact when the permit is ready: <u>Bill Childs</u> Mailing address: <u>PO Box 802</u> Phone: <u>207 252-3551</u> <u>Portland Me 04104</u>		

Please submit all of the information outlined in the Commercial Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at [www.portlandmaine.gov](http://www.portlandmaine.gov), stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant: Bill Childs

Date: 5-3-06

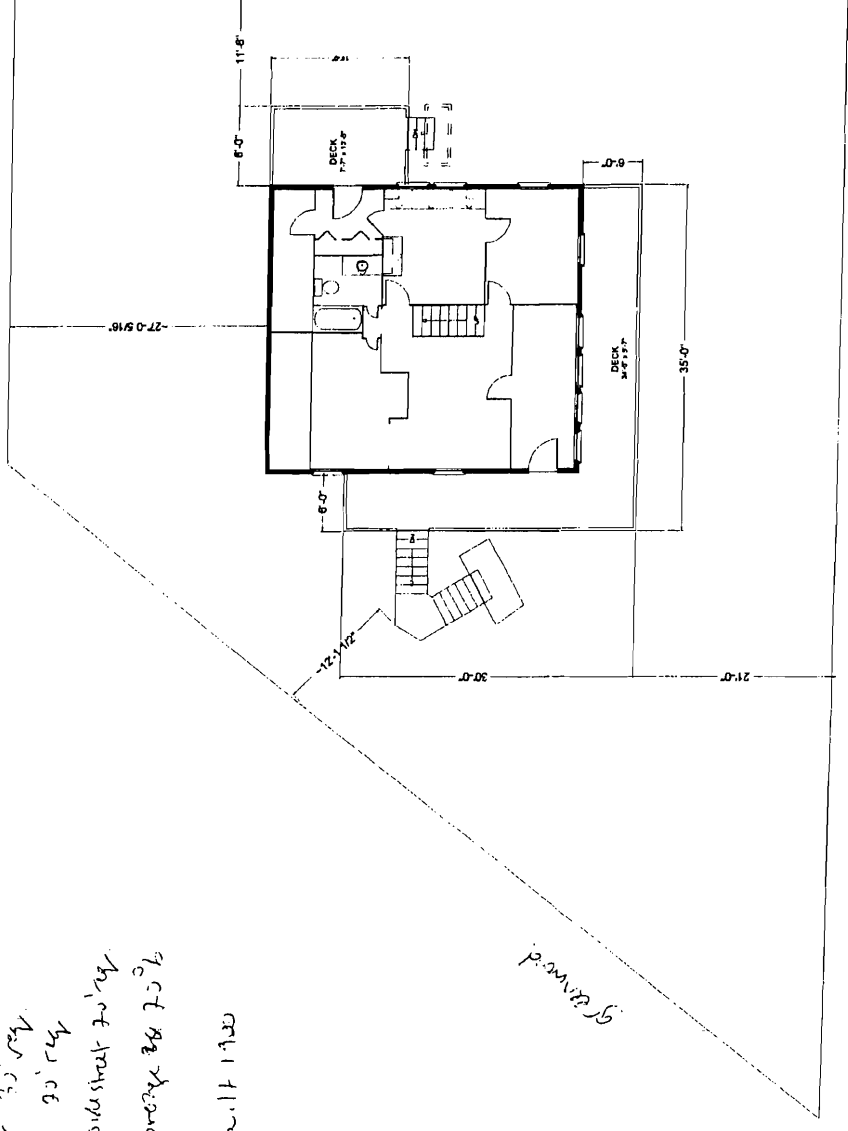
This is not a permit; you may not commence ANY work until the permit is issued.

IR 2

Front 30' wing  
rear 30' wing  
side 20' wing  
side/side street 20' wing  
lot coverage 88.75%

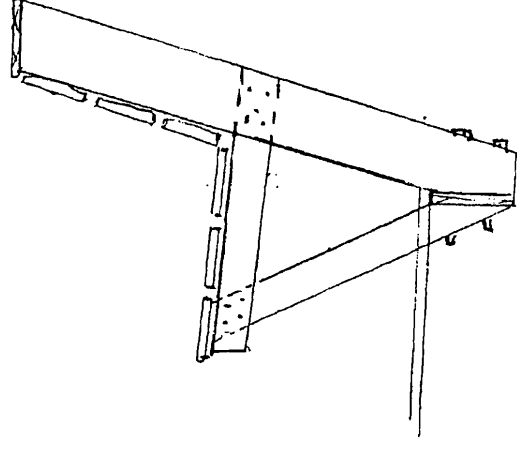
garage built 1930

# 06-0650



Torington

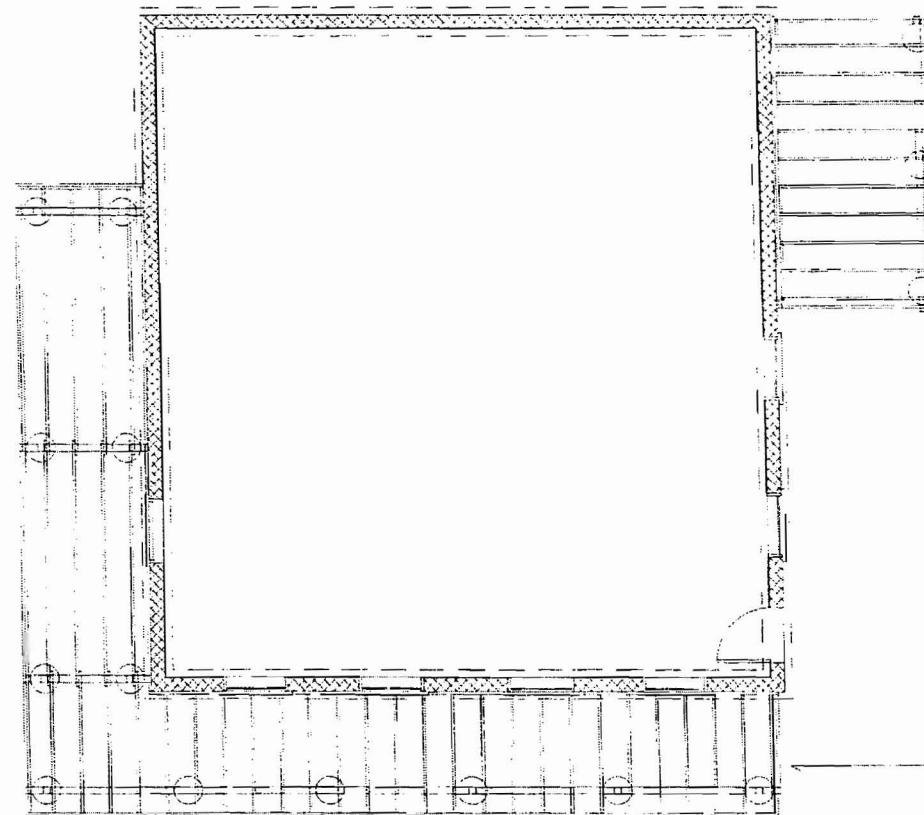
# 06-0650



PROPOSED BENCH

~~#06-0650~~

#06-0650



-2X6 PT joists@16"oc  
-8" Dia cc plers 48" deep or  
pinned to ledge  
-4X6 PT beam  
-Ledger 1/2" Dia bolted to rim  
joist @ 16"oc

- Replace deteriorated porch  
posts and  
footings to correct improper  
load paths  
(see attached photo #2).  
- Concrete footings to 48"  
below grade  
or pinned to ledge  
- Existing framing to remain



**From:** "Horizon Builders Inc" <BillC@HorizonBuildersInc.com>  
**To:** <dcummings@nhdlaw.com>, "Ann Machado" <amachado@portlandmaine.gov>, "Marge Schmuckal" <mes@portlandmaine.gov>, "Penny Littell" <pl@portlandmaine.gov>, "Mary Costigan" <mec@portlandmaine.gov>, "Tammy Munson" <tmm@portlandmaine.gov>  
**Date:** 6/18/2009 4:55:45 PM  
**Subject:** 38 Torrington Final inspection

I was informed late yesterday afternoon that the final inspections scheduled for this morning have been canceled based on Mary Costigan's letter dated 06/17/09. In that letter it is stated that the reasoning is the lack of interpretation/application of §14-436(a). Unfortunately there was more than one permit due for a final inspection. Permit # 060650 from 05/11/06 is only related to the first floor of the structure and has no bearing or consideration in the current appeals process. I have rescheduled a final inspection for this permit on 06/25/09. Furthermore it is my understanding while the City can deny occupancy or use of the areas described in the scope of the permit under appeal, that is not the case for the entire building.

Given the number of interested parties that will be out of town next week, any objections to this should be addressed before the close of business Friday 06/19/09.

Regards,

Bill

William C. Childs

President

Horizon Builders Inc

PO Box 802 Portland, ME 04104

(207) 856-5060 [www.HorizonBuildersInc.com](http://www.HorizonBuildersInc.com)

BBB Logo web final email footer copy BPI web logo final for email footer  
Energystar blue logo web final email footer copy

P Please consider the environment before printing this e-mail.

**CC:** "Trish Ashton" <PAshton@transnationalgroup.com>, "Tom Childs"

**From:** Marge Schmuckal  
**To:** Gary Wood; Penny Littell  
**Date:** 7/6/2009 9:18:08 AM  
**Subject:** Re: 38 Torrington Ave ,Peaks Island

I am kind of surprised that Attorney Goldberg was unhappy with my opinion. It favored his client. I am reminding everyone that Superior Court only ruled on one aspect of the original appeal. That was the section of the ordinance that I reviewed. It is my understanding that all other points of the original appeal are still in contention.

I'll discuss with Mary on what path I take next.  
Marge

>>> Gary Wood 7/3/2009 2:06:22 PM >>>

fyi : Attorney Jonathan Goldberg of Mittel-Asen called Thursday very unhappy with Marge's July 1 opinion. I left him a voice message declining to discuss it with him or assign anyone to call him back. I told him that we fully expect that he and his client's will come in to the BOA and try to get her opinion overturned.

He plans to call Mary C ,I'm sure.

Marge :I don't know if you want help presenting this or not ..it seems straightforward to me.

If you want help and Penny is willing to do it that is fine with me or if you want Danielle to help that is fine but we will need to ask Mary Kahl to advise the Board which is also ok with me ..she does not charge us much and did a good job in the Mosque case

Let Danielle know what you want to do

**CC:** Danielle West -Chuhta; Mary Costigan



FAX



To: Jonathan L Goldberg

Fax Number: 871-0683

From: Marge Schmuckal

Fax Number:

Date: 7/1/09

Regarding: 38 Torrington, PI

Total Number Of Pages Including Cover: 7

Phone Number For Follow-Up:

Comments:

Copy of my 14-436(a) review  
This item is on the ZBA July 16<sup>th</sup>

ZBA Agenda —

Call if you have any questions

Marge  
874-8695

City Of Portland, Maine  
Inspections Division Services  
389 Congress St Room 315 Portland Me 04101-3509  
Phone: (207) 874-8703 or (207) 874-8693  
Fax: (207) 874-8716  
<http://www.portlandmaine.gov/>

FAX



To: Bill Childs

Fax Number: 854-3732

From: Marge Schmuckel

Fax Number:

Date: July 1, 2009

Regarding: 38 Taxington, PI

Total Number Of Pages Including Cover: 7

Phone Number For Follow-Up:

Comments:

Copy of my 14-436(2) Review -  
This item is on The ZBA July 16<sup>th</sup>  
Agenda -

Call if you have any questions

Marge

874-8695

City Of Portland, Maine  
Inspections Division Services  
389 Congress St Room 315 Portland Me 04101-3509  
Phone: (207) 874-8703 or (207) 874-8693  
Fax: (207) 874-8716  
<http://www.portlandmaine.gov/>

FAX



To: Dan Cumming - NHD  
Fax Number: 775-0806  
From: Marge Schmuckel  
Fax Number:  
Date: 7/1/09  
Regarding: 38 Townsend Ave, P.I.  
Total Number Of Pages Including Cover: 7  
Phone Number For Follow-Up:

Comments:

Copy of my 14-436(a) review -  
This item is on The ZBA July 16<sup>th</sup>  
Agenda -  
Call if you have any questions  
Marge  
874-8695-

City Of Portland, Maine  
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389 Congress St Room 315 Portland Me 04101-3509  
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Penny St. Louis Littell- Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator

TO: CHAIR AND MEMBERS OF THE ZONING BOARD OF APPEALS  
FROM: MARGE SCHMUCKAL, ZONING ADMINISTRATOR  
SUBJECT: 38 TORRINGTON AVENUE, PEAKS ISLAND, 084-S-006 – IR-2  
DATE: JULY 1, 2009

As per instructions after the decision of Superior Court, I have reviewed the existing application for expansion using section 14-436(a) of the Land Use Zoning Ordinance which states:

*“For principal structures lawfully nonconforming as to land area per dwelling unit as of July 19, 1988: The floor area of the expansion shall be limited to no more than fifty (50) percent of the first floor footprint. The additional floor area shall be created in the uppermost floor by the use of dormers, turrets or similar structures needed to provide the minimum height required for habitable space while preserving the existing roof configuration to the maximum extent possible.”*

I have interpreted this section to provide four basic tasks that must be met for compliance.

There is an expansion limit of no more than fifty (50) percent increase of the first floor footprint. The first floor footprint is 1423 square feet in size which results in an allowable increase of 711.5 square foot in the uppermost floor. The existing square footage prior to renovations in the uppermost floor was 394.55 square feet. The after renovation floor area of the second floor is 858.69 square feet. Thus, the increase of floor area results in 464.14 square feet which is under the 50% allowable of 711.5 square feet. The first task has been met.

The method of construction to allow the 50% increase includes dormers, turrets or similar structures. The original roof was a pitched roof with several types of small dormers. See picture “A”. The new construction essentially became an addition of two full dormers. Therefore, I have determined that the method of construction allowed by 14-436(a) has been met.

Mr. William Childs of Horizon Builders, Inc. also submitted a sketch showing the original roof configuration overlaid upon the new construction (drawing “B”). That sketch shows that the head room of the original and new structure. 14-436(a) allows the permitted expansion to be enough for minimum height for habitable space. The plans

Room 315 – 389 Congress Street – Portland, Maine 04101 (207) 874-8695 – FAX:(207) 874-8716 – TTY:(207) 874-3936

show that the height from unfinished floor to the average ceiling height is 7' 8 3/8". The new space is providing the minimum height required under the building code which is 7'. It is noted that the ordinance regulates the minimum height and not the maximum height. It does not say that the ceiling shall be no more than the minimum required. This third task is being met.

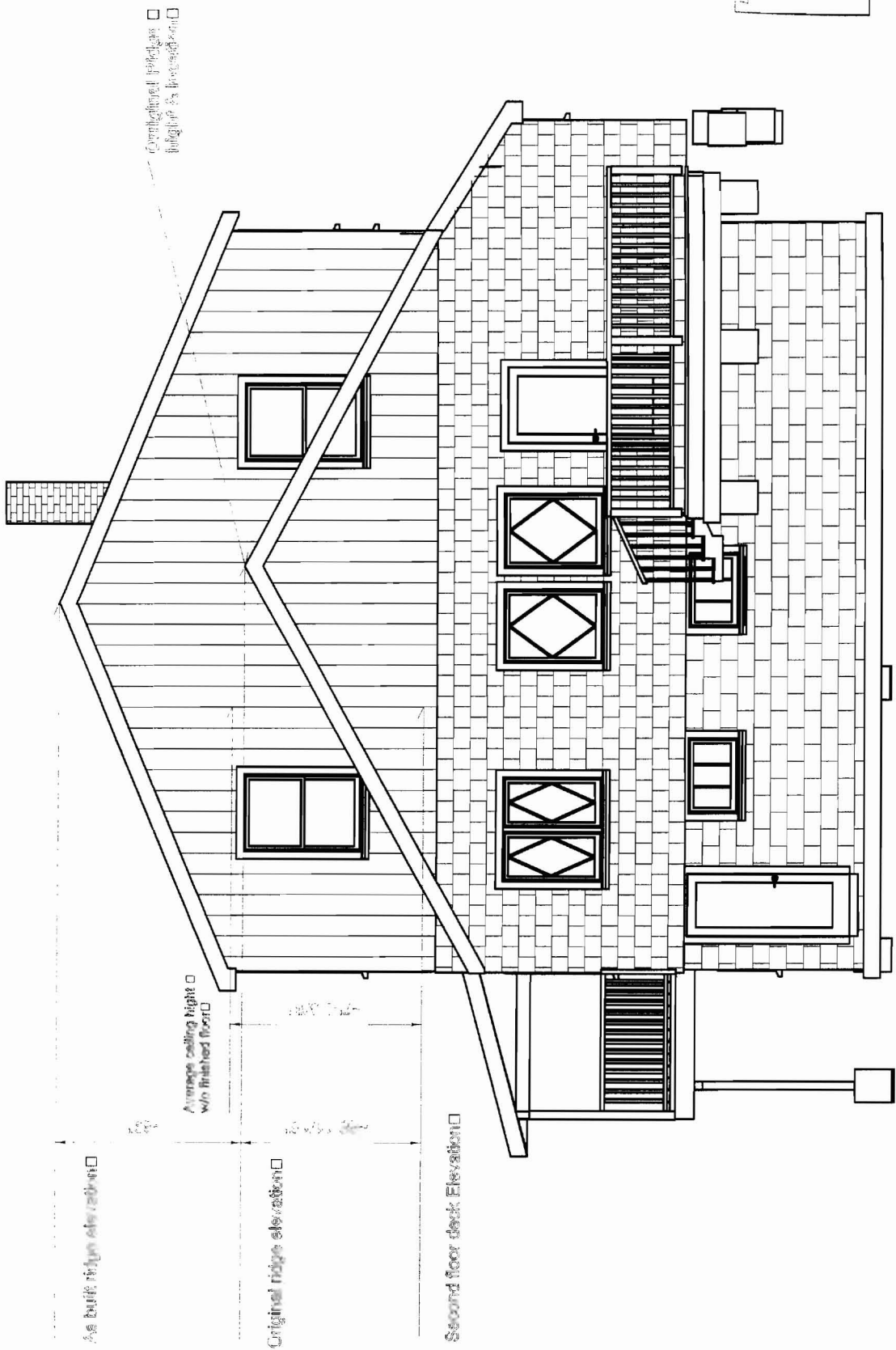
Section 14-436(a) finally states that the expansion limit and method, achieving at least the minimum height for habitable space, must also preserve the existing roof configuration to the maximum extent possible. I have use the submitted sketch to show what the effect of two full dormers without a change to the roof configuration would look like. The structure would essentially become a flat roof building with the original pitch roof configuration gone. See figure "C". This final bar in the ordinance allows for the exiting roof configuration to be maintained. The word "configuration" is a key word. It does not say that the roof must remain flat if there is an addition of two full dormers. Therefore, I believe that it is allowable, and probably encouraged, to add a new roof above the dormers if it matches the existing roof configuration to the maximum extent possible. Looking at both sketch submittal "B" and the before and after pictures "D", I do not believe the new roof line preserved the existing roof configuration to the maximum extent possible. The trusses have a different pitch and a taller depth from the bottom cord to the top of the peak. The roof's final design does not meet the wording of 14-436(a).

Taken in whole, using section 14-436(a) for review, this project does not comply with the ordinance.

"A"

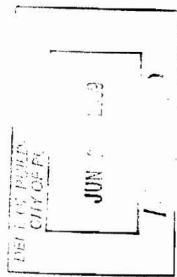


"B"



East Elevation  
30 Torrington  
Pleasant, ME

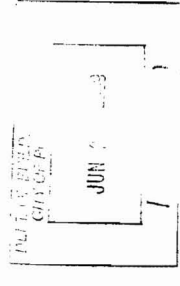
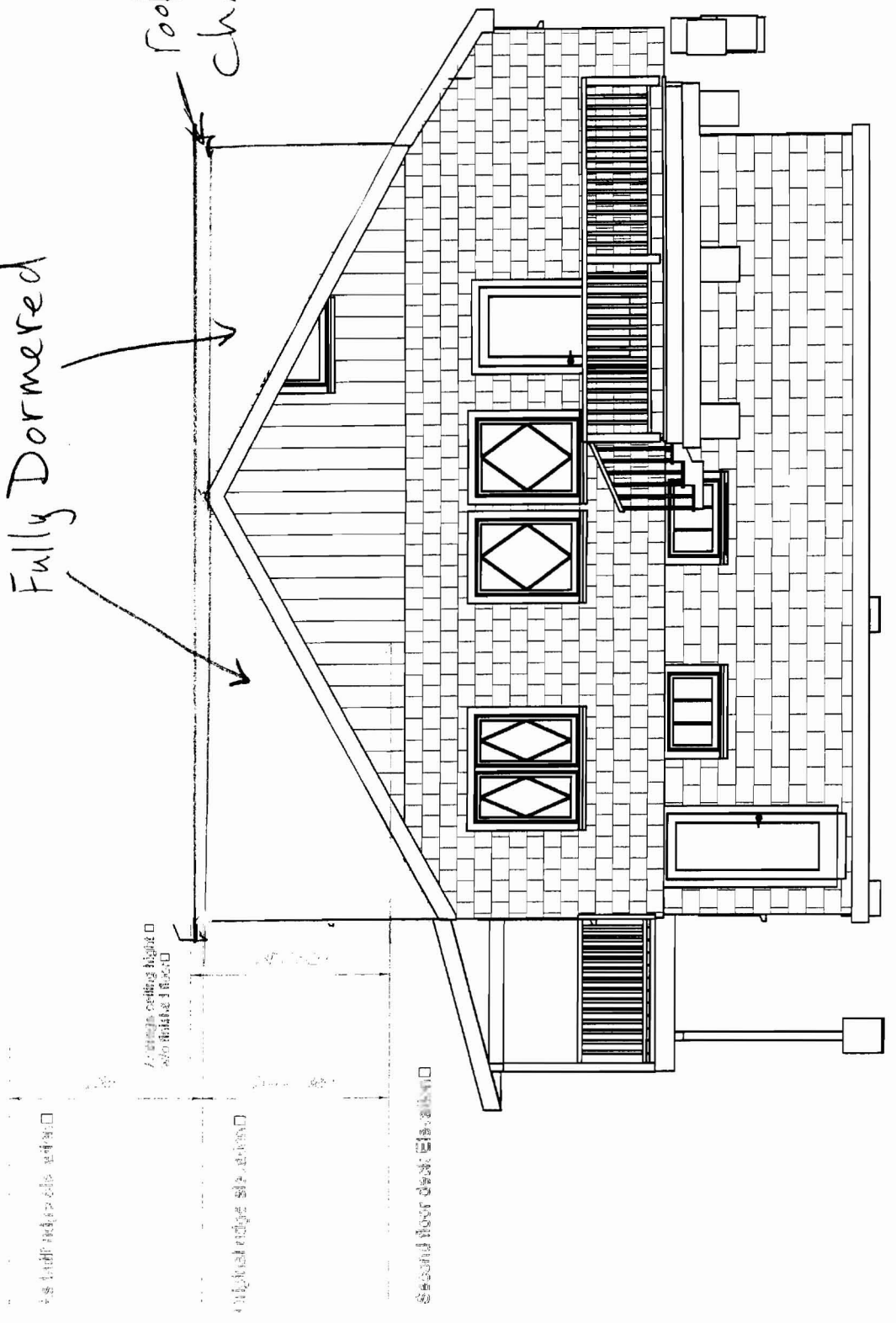
Scale: 1/4"=1'



"C"

Fully Dormered

Roof line if not changed



East Elevation  
300 W. 10th Street  
Portland, ME

Scale 1/4" = 1'-0"



### Southwest Elevation

\_\_\_\_\_



2009/06/19 12:04

IR-2 zone  $\rightarrow$   $\text{require} = 20,000 \text{ sq ft}$  Now  
lot is 4,568<sup>sq ft</sup>

Property developed prior to our Land use ordinance  
It is legally Nonconforming for Dimensional  
Requirements

$$27' \times 33.375' = 901.125'$$

1st floor footprint is 1423<sup>sq ft</sup>  $\div 2 = 711.5$   $\div 2 = 355.75$   $\div 2 = 177.875$

2nd floor Area Existing Prior to renovation is 394.8<sup>sq ft</sup>  
using 395<sup>sq ft</sup>

New Floor Area <sup>2nd floor</sup>

$$29' \times 29.61' = 858.69$$

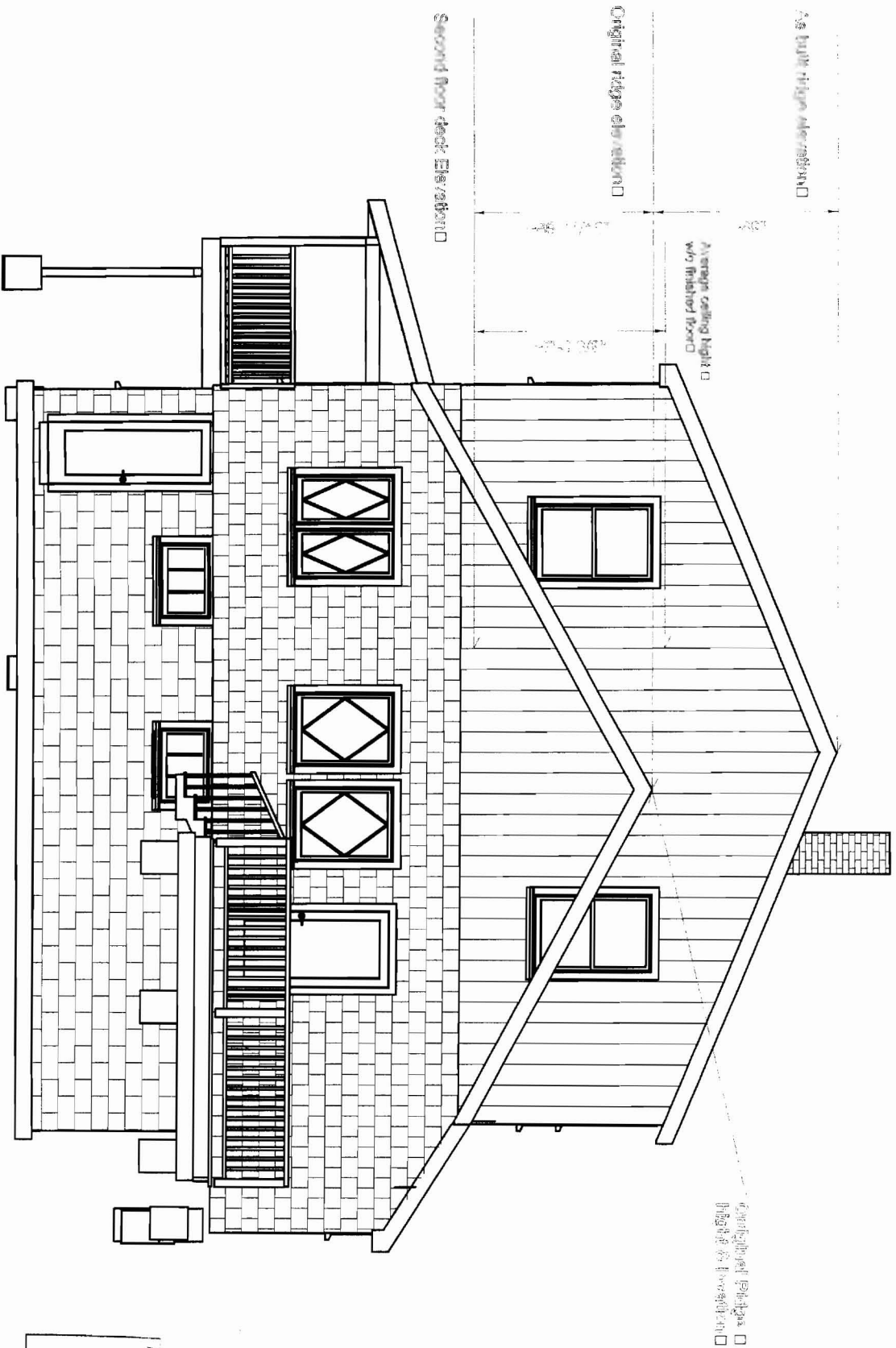
$$- 394.55$$

$$= 464.14 \text{ increase for net}$$

$$464.14 \div 2 = 232.07 \text{ in C.A.T.D.}$$

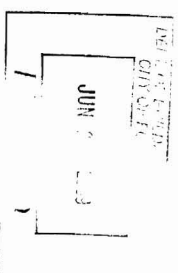
### 4 Tasks to be met

- 50% increase expansion limit
- method of construction for increase includes  
Dormers, Porches or Similar Structures.
- The expansion limit method allows for the  
minimum height for habitable space
- The expansion limit method, achieving  
minimum height for habitable space must  
also preserve the existing roof configuration  
to the MAXIMUM extent possible



Scale: 1/4"=1'

East Elevation  
30 Thornton  
Beverly Hills, CA



As per instructions after the decision of ~~the~~ Superior Court, I have ~~reassessed~~ reviewed the existing application using section 14-436(c).

"For principal structures located in nonconforming AS to Land Area per dwelling unit AS to July 19, 1988; The floor area of the existing shall be limited to no more than 50 percent of the first floor footprint. The additional floor area shall be created in the uppermost floor by use of dormer, turret or similar structure needed to provide the minimum height required for habitable space while preserving the existing roof configuration to the maximum extent possible."



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*Penny St. Louis Littell- Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator*

TO: CHAIR AND MEMBERS OF THE ZONING BOARD OF APPEALS  
FROM: MARGE SCHMUCKAL, ZONING ADMINISTRATOR  
SUBJECT: 38 TORRINGTON AVENUE, PEAKS ISLAND, 084-S-006 – IR-2  
DATE: JULY 1, 2009

As per instructions after the decision of Superior Court, I have reviewed the existing application for expansion using section 14-436(a) of the Land Use Zoning Ordinance which states:

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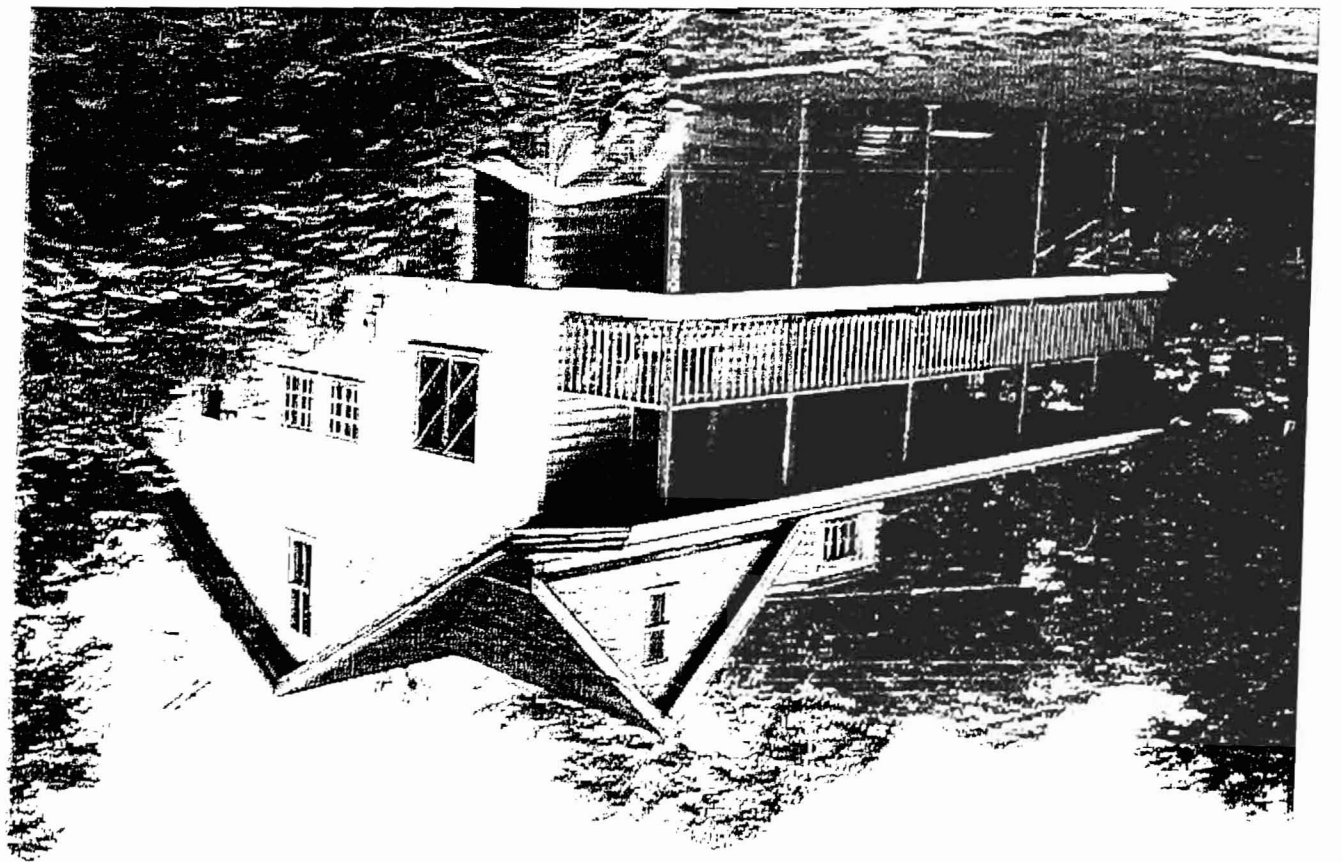
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show that the height from unfinished floor to the average ceiling height is 7' 8 3/8". The new space is providing the minimum height required under the building code which is 7'. It is noted that the ordinance regulates the minimum height and not the maximum height. It does not say that the ceiling shall be no more than the minimum required. This third task is being met.

Section 14-436(a) finally states that the expansion limit and method, achieving at least the minimum height for habitable space, must also preserve the existing roof configuration to the maximum extent possible. I have use the submitted sketch to show what the effect of two full dormers without a change to the roof configuration would look like. The structure would essentially become a flat roof building with the original pitch roof configuration gone. See figure "C". This final bar in the ordinance allows for the exiting roof configuration to be maintained. The word "configuration" is a key word. It does not say that the roof must remain flat if there is an addition of two full dormers. Therefore, I believe that it is allowable, and probably encouraged, to add a new roof above the dormers if it matches the existing roof configuration to the maximum extent possible. Looking at both sketch submittal "B" and the before and after pictures "D", I do not believe the new roof line preserved the existing roof configuration to the maximum extent possible. The trusses have a different pitch and a taller depth from the bottom cord to the top of the peak. The roof's final design does not meet the wording of 14-436(a).

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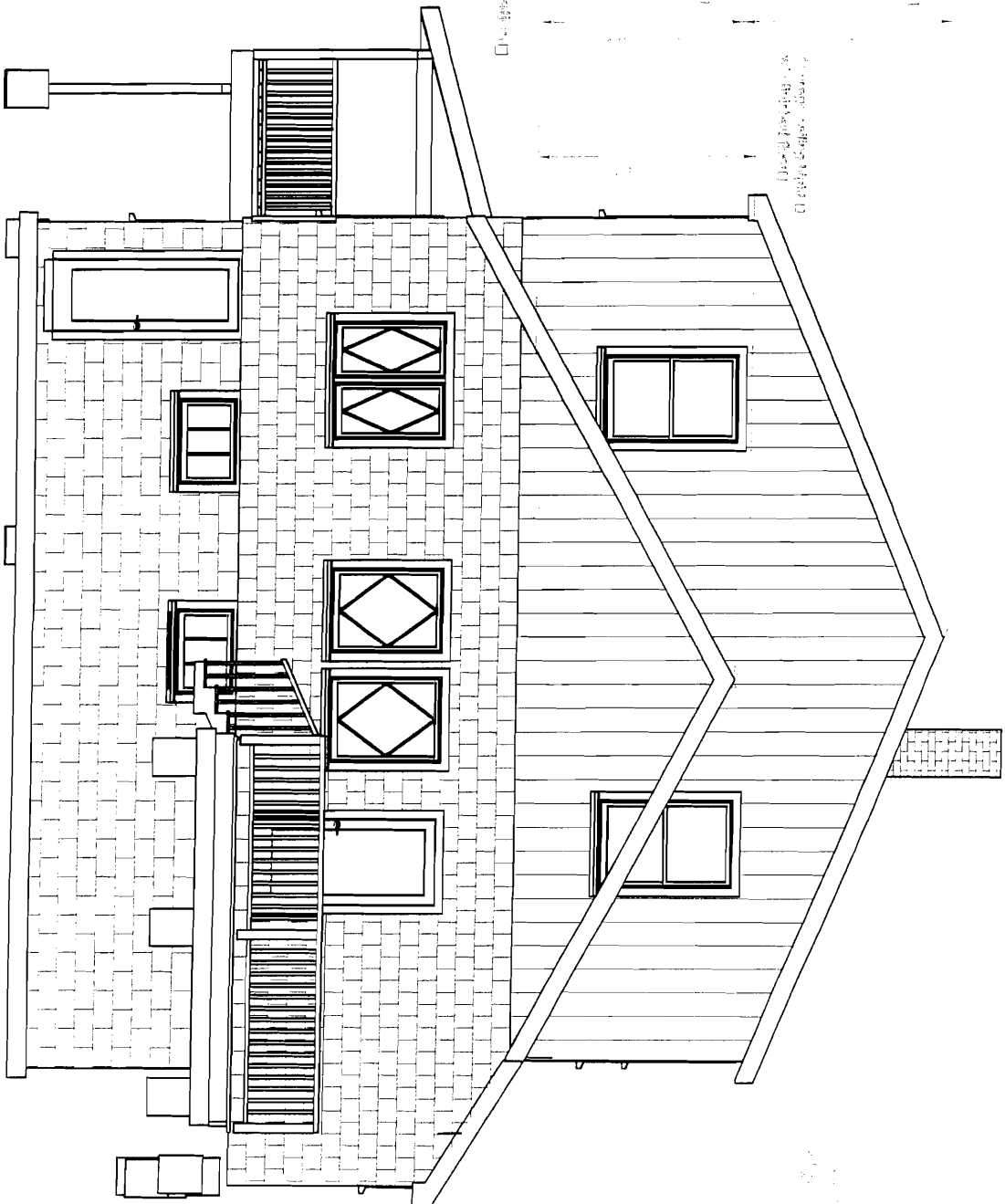
Page 1 of 1

1. Section of the building

2. Section of the building

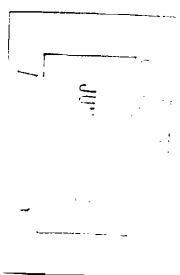
3. Section of the building

4. Section of the building



5. Section of the building

6. Section of the building

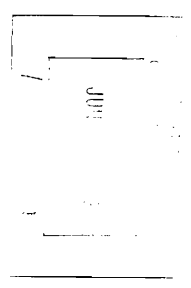
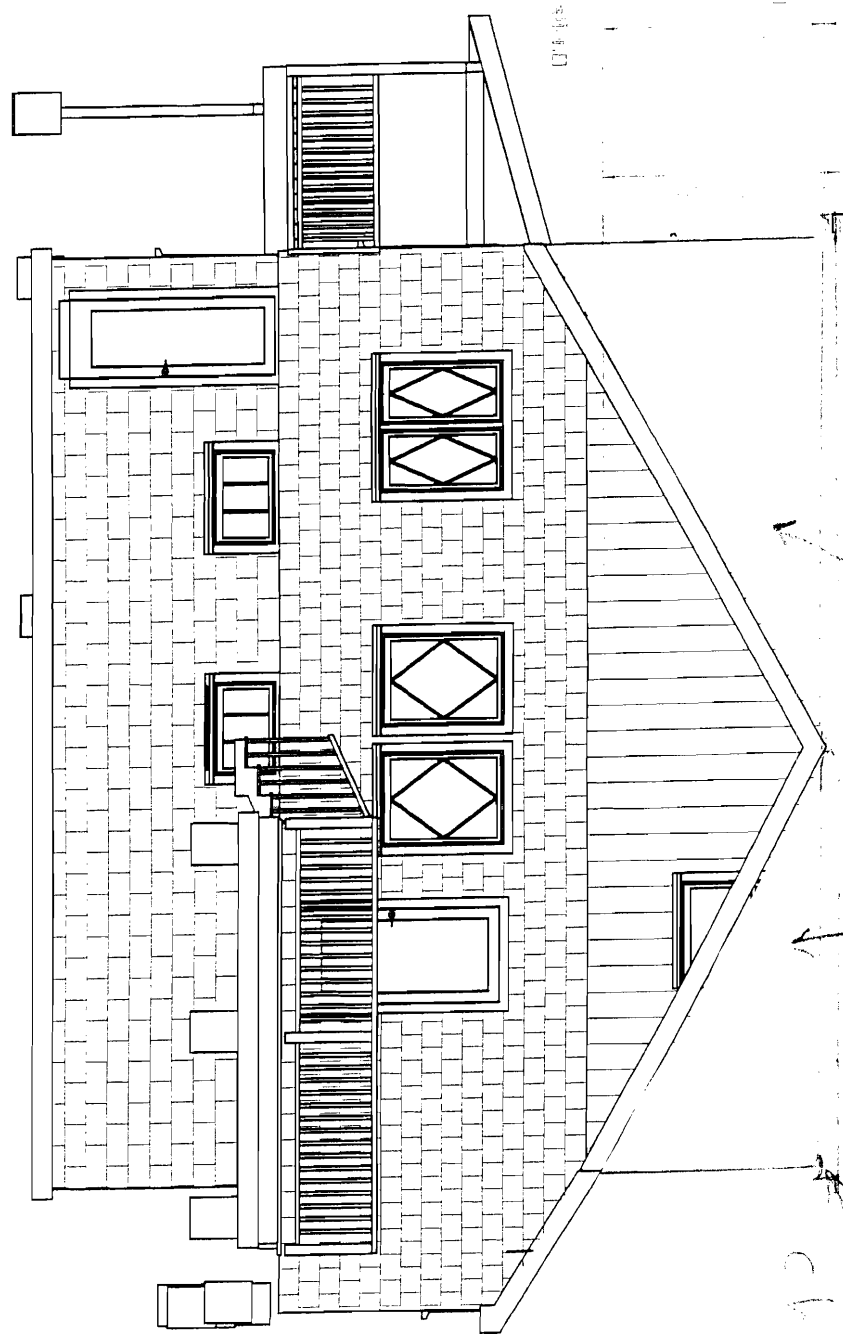




11/11/11

Fully Dormered

Back View of Hall  
changed



Project to be completed  
10/1/11  
10/1/11

10/1/11



Southeast Elevation

1

**Interpretation Appeal:**

38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a).

07/07/2009

## INTERPRETATION APPEAL 38 TORRINGTON AVENUE

9:50 AM

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
	ADAMSON HENRY K III & JOYE A ADAMSON TRUSTEES	2512 VALHALLA PLACE LEAVENWORTH, KS 66048	29 OAK AVE	1
	ASHTON RICHARD & PATRICIA ASHTON JTS	50 SILVERHILL RD MILFORD, MA 01757	38 TORRINGTON AVE	1
	AYDELOTT ALFRED L & ADRIENNE A GISKE JTS	251 BOSTON POST RD WESTON, MA 02493	36 OAK AVE	0
	AYDELOTT ALFRED L & ADRIENNE A GISKE JTS	251 BOSTON POST RD WESTON, MA 02493	36 OAK AVE	1
	BAIRD ABIGAIL & JONATHAN D BAIRD &	149 COLLEGE AVE # 6 POUGHKEEPSIE, NY 12603	28 GREENWOOD ST	1
	BARKER HUGH T III	54 TORRINGTON AVE PEAKS ISLAND, ME 04108	54 TORRINGTON AVE	1
	BROWN JAMES WWII VET & AMELIA M JTS	15 NEW ISLAND AVE PEAKS ISLAND, ME 04108	15 NEW ISLAND AVE	1
	CASHMAN MARY JO & JOHN E JTS	8 FARMS EDGE WAY CUMBERLAND CENTER, ME 04021	39 NEW ISLAND AVE	1
	CHARNECO ENRIQUE T & VITTORIA R CHARNECO JTS	13 OAK AVE PEAKS ISLAND, ME 04108	13 OAK AVE	1
	ERIKSON JOHAN & PATRICIA P ERIKSON JTS	29 GREENWOOD ST PEAKS ISLAND, ME 04108	29 GREENWOOD ST	1
	ERIKSON JOHAN P & PATRICIA P ERIKSON JTS	29 GREENWOOD ST PEAKS ISLAND, ME 04108	52 OAK AVE	1
	FILLIETTAZ CLAIRE M & MONIQUE C LEVESQUE	13 GREENWOOD ST PEAKS ISLAND, ME 04108	19 GREENWOOD ST	1
	GAY LOIS M	44 LONGWOOD DR PORTLAND, ME 04102	47 OAK AVE	1
	GRITMAN ROBERT E ETALS	60 TORRINGTON AVE PEAKS ISLAND, ME 04108	60 TORRINGTON AVE	1
	KANE JOSEPH W & B SUZANNE	72 TORRINGTON AVE PEAKS ISLAND, ME 04108	72 TORRINGTON AVE	1
	KENNEDY HARRIS W & DONALD G KENNEDY	47 NEW ISLAND AVE PEAKS ISLAND, ME 04108	2 OAK AVE	1
	KENNEDY HARRIS W & DONALD G KENNEDY	47 NEW ISLAND AVE PEAKS ISLAND, ME 04108	4 OAK AVE	0
	KLOPP DONALD W & KATHRYN B	WHITEHEAD ST PEAKS ISLAND, ME 04108	32 HADLOCK COVE RD	1
	LYDEN EDNA A	45 MONTREAL ST PORTLAND, ME 04101	25 OAK AVE	1
	MARSTON DONNA	124 PLEASANT ST PORTLAND, ME 04101	38 OAK AVE	1
	MCCANN DOREEN M & PETER G MCCANN JTS	4 GREENWOOD ST PEAKS ISLAND, ME 04108	4 GREENWOOD ST	1
	MONTANESE KATHLEEN	50 OAK ST PEAKS ISLAND, ME 04108	50 TORRINGTON AVE	1
	MORGAN SUSAN COTTON	30 BARKLEY AVE AUBURN, ME 04210	20 OAK AVE	1
	PARKER CAROLYN T	2 ISLAND AVE PEAKS ISLAND, ME 04108	1 GARDEN PL	1
	PEAKS ISLAND LIONS CLUB	GARDEN PLACE PEAKS IS, ME 04108	5 GARDEN LN	0
	PEAKS ISLAND LIONS CLUB	GARDEN PLACE PEAKS ISLAND, ME 04108	32 GARDEN PL	1

Count 44

07/07/2009

## INTERPRETATION APPEAL 38 TORRINGTON AVENUE

9:50 AM

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
	PEAKS ISLAND LIONS CLUB	2 GARDEN PL PEAKS ISLAND, ME 04108	3 NEW ISLAND AVE	0
	PETERSON SYLVIA A	4 ADAMS ST PEAKS ISLAND, ME 04108	6 ADAMS ST	1
	POLKINGHORN RICHARD & LIZBETH POLKINGHORN JTS	206 FORESIDE RD FALMOUTH, ME 04105	4 TORRINGTON AVE	1
	POWERS MARJORIE J & DAVID B JTS	17 TORRINGTON PT PEAKS ISLAND, ME 04108	17 TORRINGTON PT	1
	RICE THOMAS J & ANNE E RACER JTS	237 HOLT RD ANDOVER, MA 01810	46 TORRINGTON AVE	1
	ROBINSON GLENN R	PO BOX 8125 PORTLAND, ME 04104	45 TORRINGTON AVE	1
	ROBINSON MARK D	3 TAYLOR RD STOW, MA 01775	70 TORRINGTON AVE	1
	ROCQUE KEVIN & KAREN PETERSON JTS	31 NEW ISLAND AVE PEAKS ISLAND, ME 04108	31 NEW ISLAND AVE	1
	RYEFIELD ASSOCIATES LLC	49 SUMMIT ST SOUTH PORTLAND, ME 04106	94 TORRINGTON AVE	1
	SCHMIDT REMINGTON OSBORNE	41 A NEW ISLAND AVE PEAKS ISLAND, ME 04108	37 NEW ISLAND AVE	1
	SMITH JANICE P LIFE INTEREST	28 OAK AVE PEAKS ISLAND, ME 04108	28 OAK AVE	1
	STEED MARIA F & DAVID L STEED JTS	3 TORRINGTON PT PEAKS ISLAND, ME 04108	3 TORRINGTON PT	1
	STERLING PETER & LOUISE E JTS	39 LATHAM ST SOUTH PORTLAND, ME 04106	70 OAK AVE	1
	STERLING PETER E & LOUISE E JTS	39 LATHAM ST SOUTH PORTLAND, ME 04106	57 TORRINGTON AVE	1
	TABBUTT ANN FOSTER & ARTHUR J FINK JTS	10 NEW ISLAND AVE PEAKS ISLAND, ME 04108	10 NEW ISLAND AVE	1
	TAYLOR EUGENE GOSS & KAREN DILL TAYLOR JTS	77 TORRINGTON POINT PEAKS ISLAND, ME 04108	77 TORRINGTON AVE	1
	TOWN HARTLEY D & ESTHER T MITCHELL ETAL	60 OLD COUNTY RD FREEPORT, ME 04032	15 TORRINGTON AVE	1
	TYLER-MILLAR VICTORIA & MARK L MILLAR TRUSTEES	23 FOWLER RD CAPE ELIZABETH, ME 04107	13 TORRINGTON PT	1
	WATTERS DAVID H & JANICE M ALBERGHENE JTS	19 MAPLE ST DOVER, NH 03820	62 OAK AVE	1
	WOODBURY H HUGH & JOYCE N	76 TORRINGTON AVE PEAKS ISLAND, ME 04108	76 TORRINGTON AVE	1

07/07/2009	INTERPRETATION APPEAL 38 TORRINGTON AVENUE			9:50 AM
CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
Total Listed:	46			42



## City of Portland Zoning Board of Appeals

July 9, 2009

Jonathan L. Goldberg / Attorney at Law  
Mittel Asen LLC  
85 Exchange Street  
PO Box 427  
Portland, Maine 04112

Dear Appellant,

Your Interpretation Appeal has been scheduled to appear before the Zoning Board of Appeals on **Thursday, July 16, 2009 at 6:30 p.m.** located on the second floor room 209 of City Hall.

Please remember to bring a copy of the packet with you to the meeting to answer any questions the Board may have.

I have included an agenda with your appeal highlighted, as well as the procedures of the meeting for you to familiarize yourself.

Please feel free to contact me at 207-874-8701 if you have any questions.

Sincerely,

Gayle Guertin  
Office Assistant

Cc: Richard and Patricia Ashton, owners  
File

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

### APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 16, 2009 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

#### 1. New Business:

##### A. Interpretation Appeal:

38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a).

##### B. Practical Difficulty Variance Appeal:

16 Whitehead Street, Peaks Island, Thomas and Barbara Kipp, owners, Tax Map 084, Block N, Lot 004, IR-2 Island Residential Zone: The appellants are seeking a variance to keep the 6' x 8' enclosed rear entry that was built without a permit. The appellants are requesting a variance for the right side setback from a required 20' to 11' [section 14-145.11(c)(3)]. The appellants are also requesting a variance for the maximum allowable lot coverage of 20% [section 14-145.11(d)]. The lot is 4,109 square feet. The footprint of the building with the 6' x 8' enclosed rear entry is 1,102 square feet which covers 26.8% of the lot. Representing the appeal is Jonathan Goldberg, Esq.

##### C. Conditional Use Appeal:

47 Runnells Street, Debra L. R. & Chad M. Flynn, owners, Tax Map 177, Block A, Lot 010, R-5 Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a family daycare/nursery school at her home for 8-10 children. Representing the appeal is the owner, Debra Flynn.

##### D. Conditional Use Appeal:

90 Crescent Avenue, Great Diamond Island, Kathy Sue & Douglas Roberts & Nancy Jo Connolly, owners, Tax Map 083A, Block E, Lots 007, 008 & 010, IR-2 Island Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-145.9(a)(1) requesting that an accessory dwelling unit be added to their single family dwelling. Representing the appeal are Nancy Jo Connolly and Attorney Jim Cloutier.

#### 2. Other Business:

#### 3. Adjournment:



**CITY OF PORTLAND, MAINE**  
Zoning Board of Appeals

**Zoning Board of Appeals Committee**

**DATE:** 7/16/2009  
**TIME:** 6:30:00 PM  
**LOCATION:** 389 Congress Street

**AGENDA**

- 1 A. Interpretation Appeal: 38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a).
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- 1 D. Conditional Use Appeal: 90 Crescent Avenue, Great Diamond Island, Kathy Sue & Douglas Roberts & Nancy Jo Connolly, owners, Tax Map 083A, Block E, Lots 007, 008 & 010, IR-2 Island Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-145.9(a)(1) requesting that an accessory dwelling unit be added to their single family dwelling. Representing the appeal are Nancy Jo Connolly and Attorney Jim Cloutier.

**Gayle Guertin - legal ad for zoning board of appeals**

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**From:** Gayle Guertin  
**To:** classified@pressherald.com  
**Date:** 7/8/2009 9:53 AM  
**Subject:** legal ad for zoning board of appeals  
**CC:** Ann Freeman; Gayle Guertin; Marge Schmuckal

Good Morning Joan,

Attached is the Zoning Board of Appeals legal ad for Friday,  
July 10, 2009

Thank You  
Gayle Guertin @ 874-8701

Ads by Google

Discover  
Valspar Paint

The Ultimate In  
Beauty And  
Durability For  
Your Home.

[www.Valspar.com](http://www.Valspar.com)

# Scissors Truss Design

By Tim Carter  
©1993-2009 Tim Carter

Summary: A scissors truss provides the benefits of a vaulted ceiling in the same framing time as standard roof trusses. Structural engineers and special software customize the roof truss to your home roof pitch. Use standard trusses in part of your home and the scissors trusses or another special truss in other sections. Explore all truss options with your builder for custom results.

**Truss Display**  
Find Providers of Truss Displays. The Online Business Directory.  
[www.business.com](http://www.business.com)

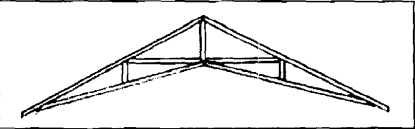
**Truss**  
Free design assistance: Convention Booth, Trade Shows, Exhibit, Display  
[www.Premier-Lighting.com](http://www.Premier-Lighting.com)

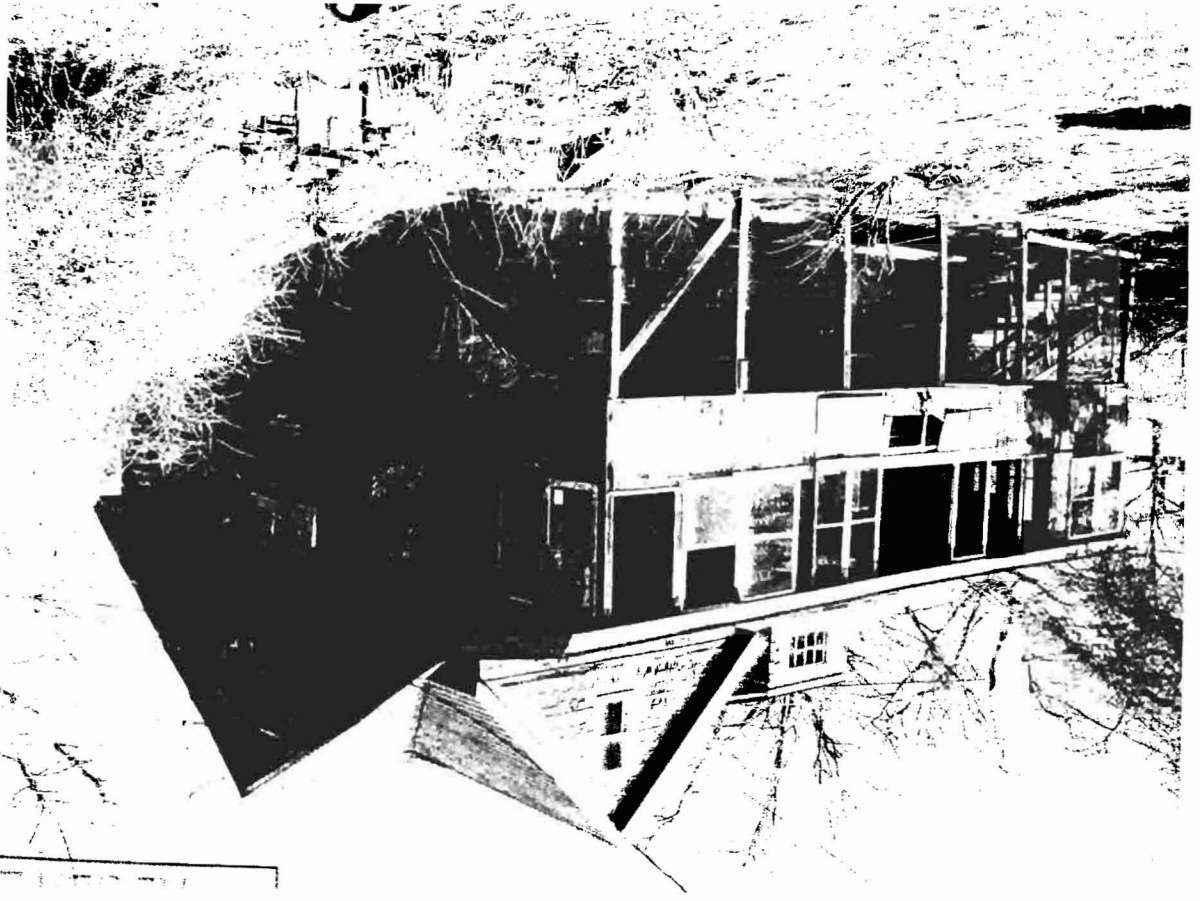
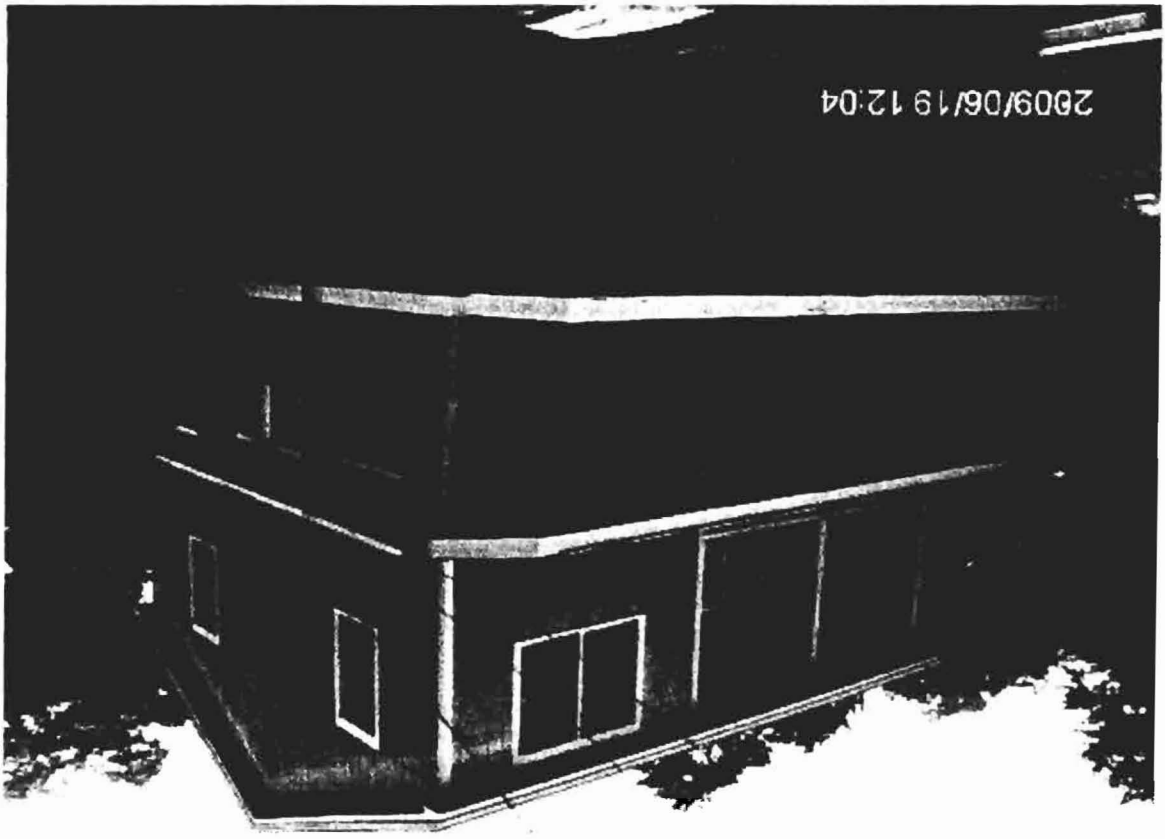
**Roof Construction**  
Searching For Roof Construction? See Our Roof Construction Guide.  
[kellyscornerstore.com](http://kellyscornerstore.com)

**Marlborough Roof Trusses**  
Call Our Comprehensive Roofing Company for Roofing and Remodeling!  
[www.DaMoreRoofing.net](http://www.DaMoreRoofing.net)

## Scissors Truss Design

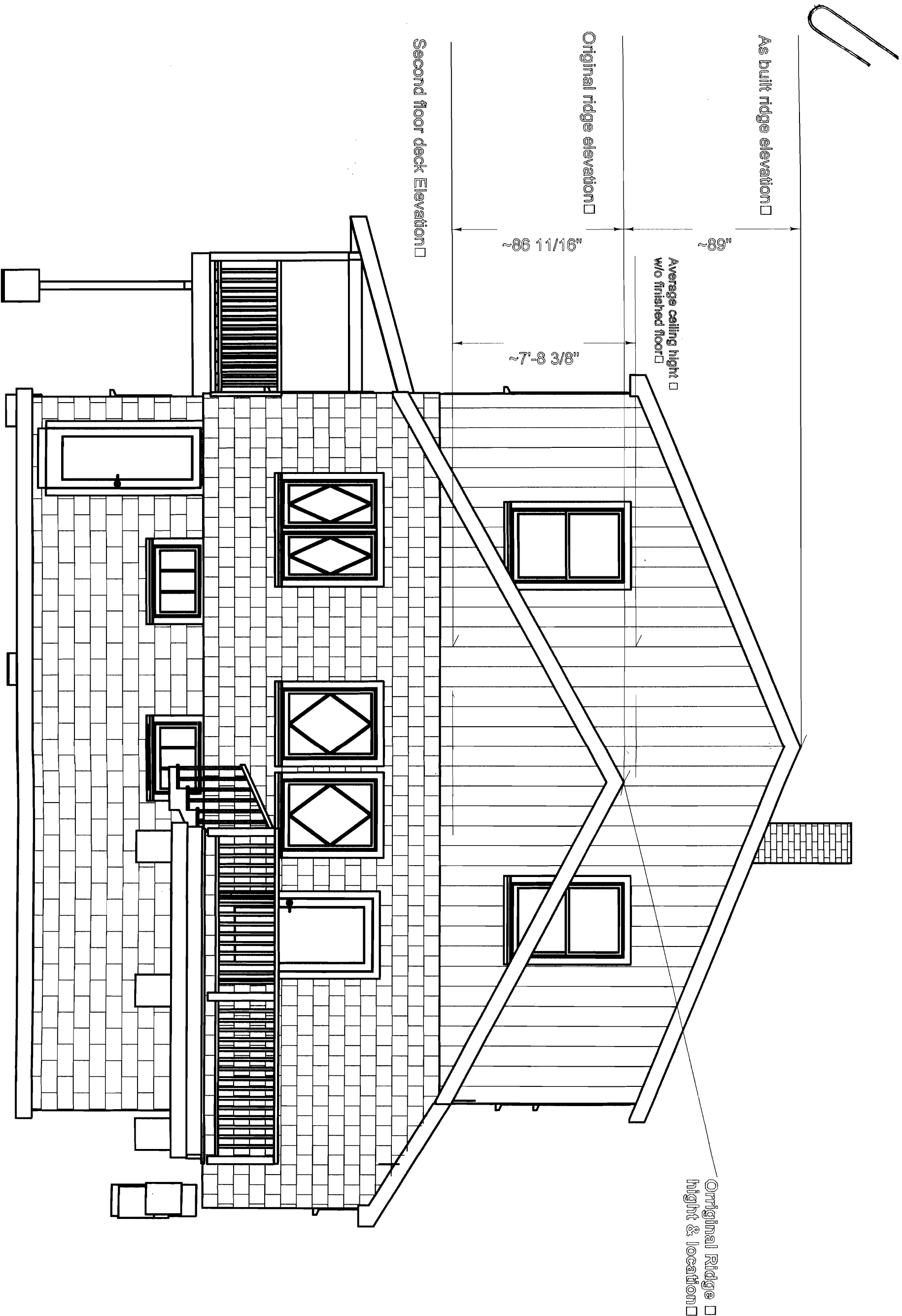
A scissors truss is a really cool roof framing option. You not only get the speed of framing that you get with common trusses, but also the added benefits of an interior sloped ceiling. The slope of the interior ceiling is always controlled by the slope of the exterior roof surface. The companies that fabricate the trusses use sophisticated software to design the trusses. You provide the span of the roof and the desired exterior roof pitch and the software does the rest. You can ask the structural engineer at the truss fabrication plant if there is a way to increase the interior slope, but I doubt you will get much more than one half the slope of the exterior roof surface.





Southeast Elevation



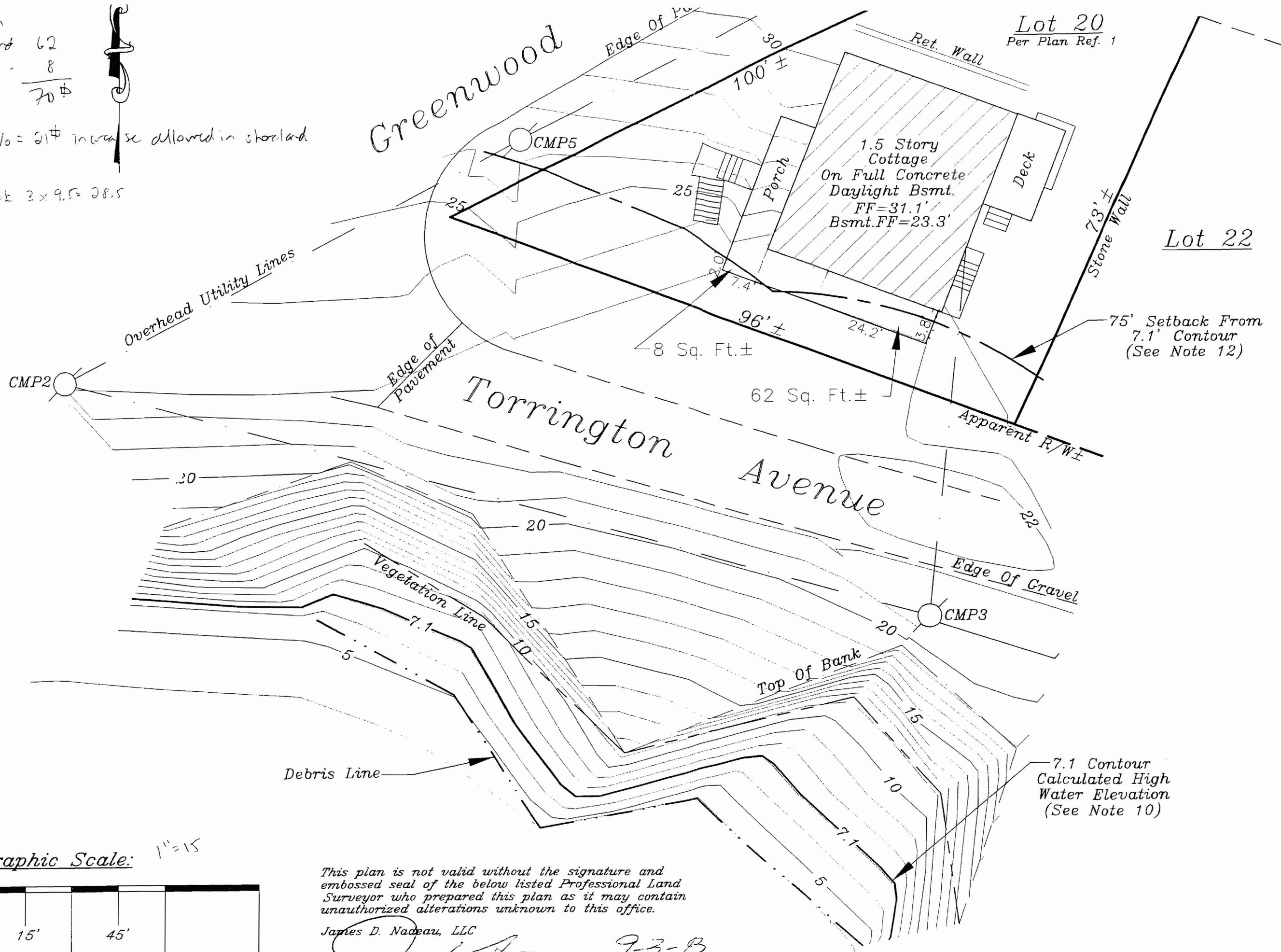


Scale: 1/4"=1' □

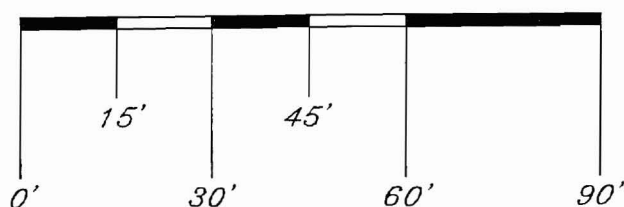
area in  
shoreland 62  
8  
70 ±

30% = 21 ± increase allowed in shoreland

right of way 3 x 9.5 = 28.5



Graphic Scale: 1" = 15'



This plan is not valid without the signature and embossed seal of the below listed Professional Land Surveyor who prepared this plan as it may contain unauthorized alterations unknown to this office.

James D. Nadeau, LLC

James D. Nadeau, P.L.S. #2124 (agent)

7-3-B  
Date:

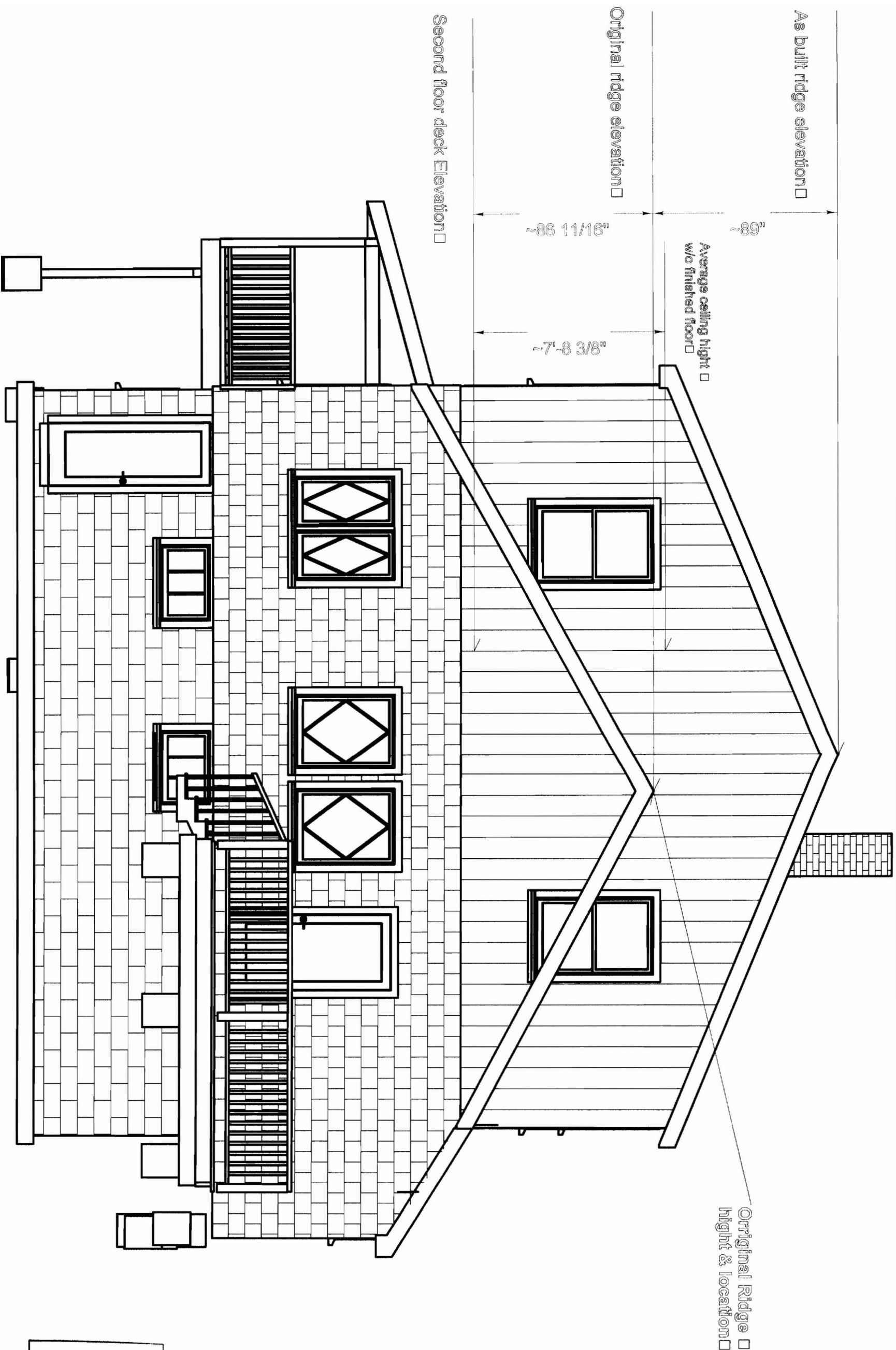
PREPARED

918 BRIGHTON  
PORTLAND, ME

RECORD OWN

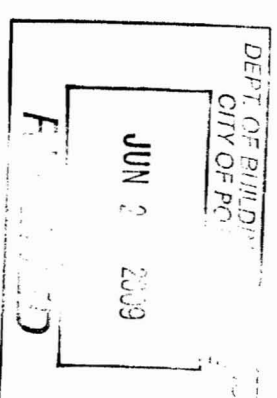
Richard & Patricia  
50 Silverhill  
Milford, MA



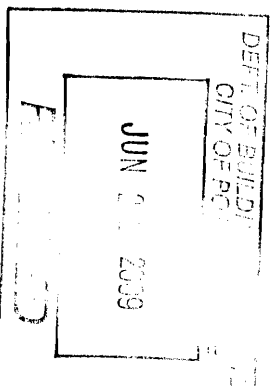
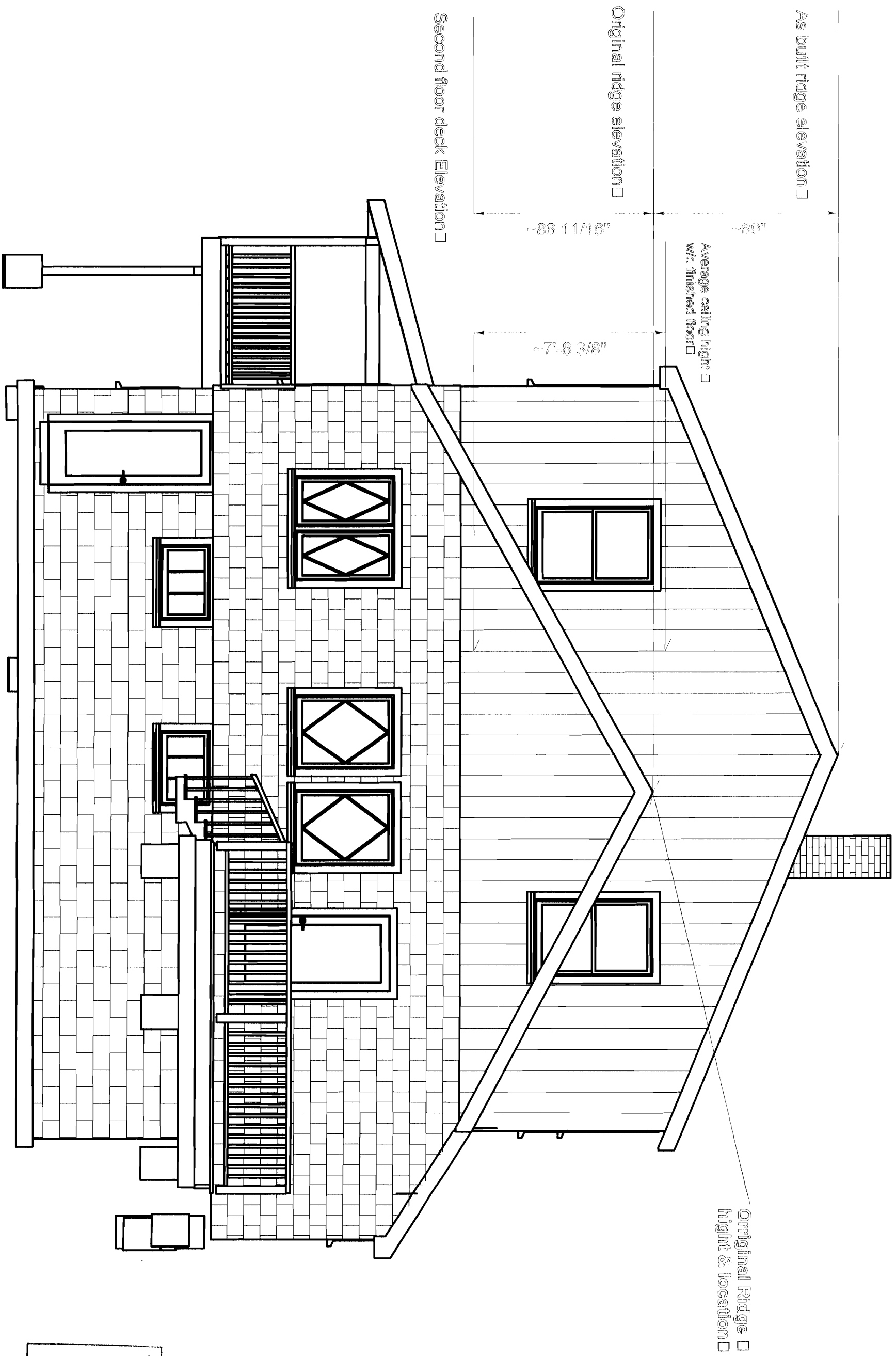


Scale: 1/4"=1' □

East Elevation □  
38 Torrington □  
Peaks Island, ME □







Scale: 1/4"=1'

lot. Projections beyond the exterior wall shall not extend over the lot line.

**R302.2 Openings.** Openings shall not be permitted in the exterior wall of a dwelling or accessory building with a fire separation distance less than 3 feet (914 mm). This distance shall be measured perpendicular to the line used to determine the fire separation distance.

**Exceptions:**

1. Openings shall be permitted in walls that are perpendicular to the line used to determine the fire separation distance.
2. Foundation vents installed in compliance with this code are permitted.

**R302.3 Penetrations.** Penetrations located in the exterior wall of a dwelling with a fire separation distance less than 3 feet (914 mm) shall be protected in accordance with Section R317.3.

**Exception:** Penetrations shall be permitted in walls that are perpendicular to the line used to determine the fire separation distance.

## SECTION R303 LIGHT, VENTILATION AND HEATING

**R303.1 Habitable rooms.** All habitable rooms shall be provided with aggregate glazing area of not less than 8 percent of the floor area of such rooms. Natural ventilation shall be through windows, doors, louvers or other approved openings to the outdoor air. Such openings shall be provided with ready access or shall otherwise be readily controllable by the building occupants. The minimum openable area to the outdoors shall be 4 percent of the floor area being ventilated.

**Exceptions:**

1. The glazed areas need not be openable where the opening is not required by Section R310 and an approved mechanical ventilation system is provided capable of producing 0.35 air change per hour in the room or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) (7.08 L/s) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom.
2. The glazed areas need not be provided in rooms where Exception 1 above is satisfied and artificial light is provided capable of producing an average illumination of 6 footcandles (6.46 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

**R303.2 Adjoining rooms.** For the purpose of determining light and ventilation requirements, any room shall be considered as a portion of an adjoining room when at least one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room but not less than 25 square feet (2.32 m<sup>2</sup>).

**Exception:** Openings required for light and/or ventilation shall be permitted to open into a thermally isolated sunroom addition or patio cover, provided that there is an openable area between the adjoining room and the sunroom addition or patio cover of not less than one-tenth of the floor area of the interior room but not less than 20 square feet (1.86 m<sup>2</sup>). The minimum openable area to the outdoors shall be based upon the total floor area being ventilated.

**R303.3 Bathrooms.** Bathrooms, water closet compartments and other similar rooms shall be provided with aggregate glazing area in windows of not less than 3 square feet (0.279 m<sup>2</sup>), one-half of which must be openable.

**Exception:** The glazed areas shall not be required where artificial light and a mechanical ventilation system are provided. The minimum ventilation rates shall be 50 cfm (23.6 L/s) for intermittent ventilation or 20 cfm (9.4 L/s) for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside.

**R303.4 Opening location.** Outdoor intake and exhaust openings shall be located in accordance with Sections R303.4.1 and R303.4.2.

**R303.4.1 Intake openings.** Mechanical and gravity outdoor air intake openings shall be located a minimum of 10 feet (3048 mm) from any hazardous or noxious contaminant, such as vents, chimneys, plumbing vents, streets, alleys, parking lots and loading docks, except as otherwise specified in this code. Where a source of contaminant is located within 10 feet (3048 mm) of an intake opening, such opening shall be located a minimum of 2 feet (610 mm) below the contaminant source.

For the purpose of this section, the exhaust from dwelling unit toilet rooms, bathrooms and kitchens shall not be considered as hazardous or noxious.

**R303.4.2 Exhaust openings.** Outside exhaust openings shall be located so as not to create a nuisance. Exhaust air shall not be directed onto walkways.

**R303.5 Outside opening protection.** Air exhaust and intake openings that terminate outdoors shall be protected with corrosion-resistant screens, louvers or grilles having a minimum opening size of 1/4 inch (6.4 mm) and a maximum opening size of 1/2 inch (12.7 mm), in any dimension. Openings shall be protected against local weather conditions. Outdoor air exhaust and intake openings shall meet the provisions for exterior wall opening protectives in accordance with this code.

**R303.6 Stairway illumination.** All interior and exterior stairways shall be provided with a means to illuminate the stairs, including the landings and treads. Interior stairways shall be provided with an artificial light source located in the immediate vicinity of each landing of the stairway. For interior stairs the artificial light sources shall be capable of illuminating treads and landings to levels not less than 1 foot-candles (11 lux) measured at the center of treads and landings. Exterior stairways shall be provided with an artificial light source located in the immediate vicinity of the top landing of the stairway. Exterior stairways providing access to a basement from the outside grade level shall be provided with an artificial light source lo-

cated in the immediate vicinity of the bottom landing of the stairway.

**Exception:** An artificial light source is not required at the top and bottom landing, provided an artificial light source is located directly over each stairway section.

**R303.6.1 Light activation.** The control for activation of the required interior stairway lighting shall be accessible at the top and bottom of each stairway without traversing any steps. The illumination of exterior stairways shall be controlled from inside the dwelling unit.

**Exception:** Lights that are continuously illuminated or automatically controlled.

**R303.7 Required glazed openings.** Required glazed openings shall open directly onto a street or public alley, or a yard or court located on the same lot as the building.

**R303.7.1 Roofed porches.** Required glazed openings may face into a roofed porch where the porch abuts a street, yard or court and the longer side of the porch is at least 65 percent open and unobstructed and the ceiling height is not less than 7 feet (2134 mm).

**R303.8 Required heating.** When the winter design temperature in Table R301.2(1) is below 60°F (16°C), every dwelling unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68°F (20°C) at a point 3 feet (914 mm) above the floor and 2 feet (610 mm) from exterior walls in all habitable rooms at the design temperature. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.

## SECTION R304 MINIMUM ROOM AREAS

**R304.1 Minimum area.** Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet (11.2 m<sup>2</sup>) of gross floor area.

**R304.2 Other rooms.** Other habitable rooms shall have a floor area of not less than 70 square feet (6.5 m<sup>2</sup>).

**Exception:** Kitchens.

**R304.3 Minimum dimensions.** Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

**Exception:** Kitchens.

**R304.4 Height effect on room area.** Portions of a room with a sloping ceiling measuring less than 5 feet (1524 mm) or a furred ceiling measuring less than 7 feet (2134 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room.

## SECTION R305 CEILING HEIGHT

**R305.1 Minimum height.** Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements

shall have a ceiling height of not less than 7 feet (2134 mm). The required height shall be measured from the finish floor to the lowest projection from the ceiling.

**Exceptions:**

1. Beams and girders spaced not less than 4 feet (1219 mm) on center may project not more than 6 inches (152 mm) below the required ceiling height.
2. Ceilings in basements without habitable spaces may project to within 6 feet, 8 inches (2032 mm) of the finished floor; and beams, girders, ducts or other structures may project to within 6 feet, 4 inches (1930 mm) of the finished floor.
3. Not more than 50 percent of the required floor area of a room or space is permitted to have a sloped ceiling less than 7 feet (2134 mm) in height with no portion of the required floor area less than 5 feet (1524 mm) height.
4. Bathrooms shall have a minimum ceiling height of 6 feet 8 inches (2036 mm) over the fixture and at front clearance area for fixtures as shown in Fig R307.2. A shower or tub equipped with a showerhead shall have a minimum ceiling height of 6 feet 8 inches (2036 mm) above a minimum area 30 inches (762 mm) by 30 inches (762 mm) at the showerhead.

## SECTION R306 SANITATION

**R306.1 Toilet facilities.** Every dwelling unit shall be provided with a water closet, lavatory, and a bathtub or shower.

**R306.2 Kitchen.** Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink.

**R306.3 Sewage disposal.** All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.

**R306.4 Water supply to fixtures.** All plumbing fixtures shall be connected to an approved water supply. Kitchen sinks, lavatories, bathtubs, showers, bidets, laundry tubs and washing machine outlets shall be provided with hot and cold water.

## SECTION R307 TOILET, BATH AND SHOWER SPACES

**R307.1 Space required.** Fixtures shall be spaced as per Fig R307.2.

**R307.2 Bathtub and shower spaces.** Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with nonabsorbent surface. Such wall surfaces shall extend to a height of not less than 6 feet (1829 mm) above the floor.