



City of Portland, Maine
Department of Planning and Urban Development
Zoning Board of Appeals
Variance Appeal Application

Applicant Information:

Sadri Shir

Name

N/A

Business Name

41 Ocean House Road

Address

Cape Elizabeth, ME 04107

Cell 207-228-5040

Telephone

Fax

Applicant's Right, Title or Interest in Subject Property

Owner

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

Current Zoning Designation: R-5

Existing Use of Property:

first floor/Empty - no use

2nd floor/Residential Apartment
(apartment no change)

Proposed

used as place of worship
needs required # of
parking spaces.

Subject Property Information:

978 Washington Avenue

Property Address

161-E-3

Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

Applicant

Name

N/A

Address

N/A

N/A

Telephone

Fax 332

Variance from Section 14 - ~~120(1)(2)(5)~~

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

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

X

Sadri Shir

Signature of Applicant

X

5/4/2009

Date

1. Can the land yield a reasonable return (not the highest return) without the granting of a variance? NO

This property had been on the market for over a year and half before the current owner bought it. It was in poor shape and needed extensive amount of money to be put into it for redevelopment (i.e. change of use, improvements on site and as well in the building). The building had been used for a television repair shop on the lower level and a residential unit on the second floor. Due to financial and personal hardship, the repair shop owner closed it down. It has been difficult to replace the repair shop with similar use retail and therefore the grandfathering has been lost.

Since the building has been used for commercial use, the lot has the capacity to provide enough parking spaces for the proposed use of place of worship. With the proposed use, it will significantly reduce the traffic generation since the place will be open for Friday prayers with times from 12:00 to 2:00 PM and occasionally on during the week by individuals wishing to pray (versus the repair shop that was opened seven days a week). (It is a requirement that Friday (noon) prayers are done in a group setting whereas the other prayers can be done at the individual's preference of place). There will be no marriage ceremonies, funerals or any traffic generating events will occur here. The attendees are specific population and will not have the traffic generation like the repair shop, which is open to the general public. There are about five to six families that attend, which equals to approximately about a maximum of fifteen people; majority of these attendees do car pool to the property. At any given time, there shouldn't be more than of ten (10) cars at the site; this number would be the maximum most of the time. Therefore the existing parking can definitely have the capacity for this limited traffic.

It will be very expensive and difficult to convert this property to another residential unit. Currently the first floor unit layout is ideal for the proposed use.

2. Are there factors which are unique to this property, and not to the general conditions of the neighborhood, which create a need for a variance? YES

This property is one of the few in the neighborhood that has/had a retail entity in it. Even the abutting commercial parcels have no available parking. There is no (commercially) parking one could lease within a reasonable distance to the property since the majority of neighborhood are residential units.

3. Will the granting of the variance alter the essential character of the locality? NO

We do not believe that the variance will not alter the essential character of the locality; if anything, this will be more in kind with the neighborhood.

4. Is the hardship a result of the action taken by the applicant or a prior owner (self-created hardship)? NO

The hardship is in no way caused by the applicant or current owner. This hardship is simply a function of the physical limitation of this residential zoned parcel.

* It is a requirement that Friday (noon) prayers are done in a group setting whereas the other prayers can be done at the individual's preference of place.

MAY 21 2009

May 15, 2009

Portland Zoning Board of Appeals
398 Congress Street
Portland, ME 04102

MAY 21 2009

Re: 978 Washington Avenue- Variance Appeal
CBL: 161 E1001

To the members of the ZBA,

Please consider my application for an appeal from Section 14-121 (a) which requires that proposed use of 'place of worship' for this property, have a total of forty parking spaces. Currently the lot size is 14,418 with an existing building on it. The building has a residential use on the second floor and a commercial use (a television repair shop) on the first floor. Since the repair shop closed down a little over a year ago, the first floor has been vacant. It has been difficult to replace the repair shop with similar use retail and therefore the grandfathering has been lost.

The parcel is located on a busy arterial way and is a great location for the proposed use. The parcel can also handle the traffic capacity of the proposed use since there was a retail use on the first floor of the building. With the proposed use, it will significantly reduce the traffic generation since the place will be open for Friday prayers with times from 12:00 to 2:00 PM and occasionally on during the week by individuals wishing to pray (versus the repair shop that was opened seven days a week). (It is a requirement that Friday (noon) prayers are done in a group setting whereas the other prayers can be done at the individual's preference of place). There will be no marriage ceremonies, funerals or any traffic generating events will occur here. The attendees are specific population and will not have the traffic generation like the repair shop, which is open to the general public. There are about five to six families that attend, which equals to approximately about a maximum of fifteen people; majority of these attendees do car pool to the property. At any given time, there shouldn't be more than of ten (10) cars at the site; this number would be the maximum most of the time. Therefore the existing parking can definitely have the capacity for this limited traffic.

Although the total number of parking spaces provided does not meet the current parking requirement, an off-street paved parking lot is provided for a twenty (20) vehicles (9' x 19' spaces with a 24' aisle which meets the city standards). This lot also includes parking for the tenants of one unit residential on the second floor. Once again, the total traffic loads is expected to be significantly less than the prior retail electronics shop with only occasional usage during the week by individuals wishing to pray.

The variance will not alter the essential character of the locality; if anything, this will be more in kind with the neighborhood since there will be no alternation to the site or building. This property is one of the few in the neighborhood that has a retail entity in it. Even the abutting commercial parcels have no available parking. There is no (commercially) parking one could lease within a reasonable distance to the property since the majority of neighborhood are residential units.

Thank you for your time and patience.

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Peter Coyne
Philip Saucier-chair
Deborah Rutter
Jill E. Hunter
Gordan Smith-secretary
William Getz
Sara Moppin

June 9, 2009

Shukria Wiar
420 Mitchell Road
Cape Elizabeth, ME 04107

RE: 978 Washington Avenue
CBL: 161 E003
ZONE: R5

Dear Mrs. Wiar:

As you know, at the June 4, 2009 meeting, the Board accepted the withdrawal of your Variance Appeal with no prejudice for the off street parking requirement to be waived.

Since there were changes to the parking lot it is necessary to follow through on a site plan application to the Planning Division.

Enclosed please find the billing for the Zoning Board Appeals legal ad and abutter's notification and also a copy of the Zoning Board Appeal decision from the agenda.

Appeals from decisions of the Board may be filed in Superior Court, pursuant to 30-A M.R.S.A. section 2691 (2) (G).

Should you have any questions please feel free to contact me at 207-874-8701.

Sincerely,



Gayle Guertin
Office Assistant

CC: Sadri Shir, owner
file

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk

From: Marge Schmuckal, Zoning Administrator

Date: June 8, 2009

RE: Action taken by the Zoning Board of Appeals on June 4, 2009.

Members Present: Philip Saucier (chair), Gordon Smith (secretary), Jill Hunter, William Getz, and Peter Coyne.

Member Absent: Sara Moppin and Deborah Rutter

1. New Business:

A. Practical Difficulty Variance Appeal:

978 Washington Avenue, Sadri Shir, owner, Tax Map 161, Block E, Lot 003, R-5 Zone: The appellant was seeking a change the use of their property from a commercial use to a place of worship on the first floor. The appellant requested a variance in the minimum required lot size from one acre (43,560 square feet) to 14,400 square feet [section 14-120(1)(a)(5)]. Representing the appeal was Shukria Wiar. **The Board voted 5-0 to deny denied the Practical Difficulty Appeal. The Board will be voting on the finding of facts at the next Zoning Board of Appeals meeting on Thursday, June 18, 2009.**

B. Variance Appeal:

978 Washington Avenue, Sadri Shir, owner, Tax Map 161, Block E, Lot 003, R-5 Zone: The appellant was seeking a Variance Appeal under section 14-332 requesting that the off-street parking requirements be waived for the proposed change of use to a place of worship on the first floor. Section 14-332 (k) requires one off-street parking space for each 25 square feet of floor area (no fixed seats) in the principal place of assemblage for worship. The place of worship has approximately 974 square feet of floor area which requires thirty-nine parking spaces. Section 14-332(a) requires one parking space for the dwelling unit on the second floor. The total number of spaces required for the two uses is forty spaces, instead of the twenty parking spaces shown. Representing the appeal was Shukria Wiar. **The Variance Appeal was withdrawn by the applicant and the withdrawal was accepted by the Board.**

Enclosure:

Agenda of June 04, 2009

Original Zoning Board Decision

Two audio tapes and 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
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1524	Applicant: Shir Sadri
Project Name: 978 Washington Ave	Location: 978 WASHINGTON AVE
CBL: 161 E003001	Application Type: Variance Appeal
Invoice Date: 05/28/2009	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
				\$177.79		\$0.00			On Receipt

First Billing

Divison/Board: -

Previous Balance

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements	1	\$117.04
Notices	81	\$60.75
		<u>\$177.79</u>
Total Current Fees:		+ \$177.79
Total Current Payments:		- \$0.00
Amount Due Now:		\$177.79

Detach and remit with payment

Bill to: Shir Sadri
41 Ocean House Rd
Cape Elizabeth , ME 04107

CBL 161 E003001
Application No: 0000-1524
Invoice Date: 05/28/2009
Invoice No: 34625
Total Amt Due:
Payment Amount:

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.

members present: Philip Sawyer (Chair), Gordon Smith, Jill Hunter,
William Getz, Peter Coigne (secretary)

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

members absent: Sara Mappin, Deborah Rutter

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, June 04, 2009 at 6:30 p.m. on the second floor in the Council Chambers at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

Called to order at 6:40 pm

1. New Business:

A. Practical Difficulty Variance Appeal:

978 Washington Avenue, Sadri Shir, owner, Tax Map 161, Block E, Lot 003, R-5 Zone:

The appellant is seeking to change the use of their property from a commercial use to a place of worship. The appellant is requesting a variance in the minimum required lot size from one acre (43,560 square feet) to 14,400 square feet [section 14-120(1)(a)(5)].

Representing the appeal is Shukria Wiar.

The Board will be voting on the finding of facts at the next Zoning Board of Appeals meeting.

B. Variance Appeal:

978 Washington Avenue, Sadri Shir, owner, Tax Map 161, Block E, Lot 003, R-5 Zone:

The appellant is seeking a Variance Appeal under section 14-332 requesting that the off-street parking requirement be waived for the proposed change of use to a place of

worship. Section 14-332 (k) requires one off-street parking space for each 25 square feet of floor area (no fixed seats) in the principal place of assemblage for worship. The place of worship has approximately 974 square feet of floor area which requires thirty-nine parking spaces. Section 14-332(a) requires one parking space for the dwelling unit on the second floor. The total number of spaces required for the two uses is forty spaces, instead of the twenty parking spaces shown. Representing the appeal is Shukria Wiar.

2. Other Business:

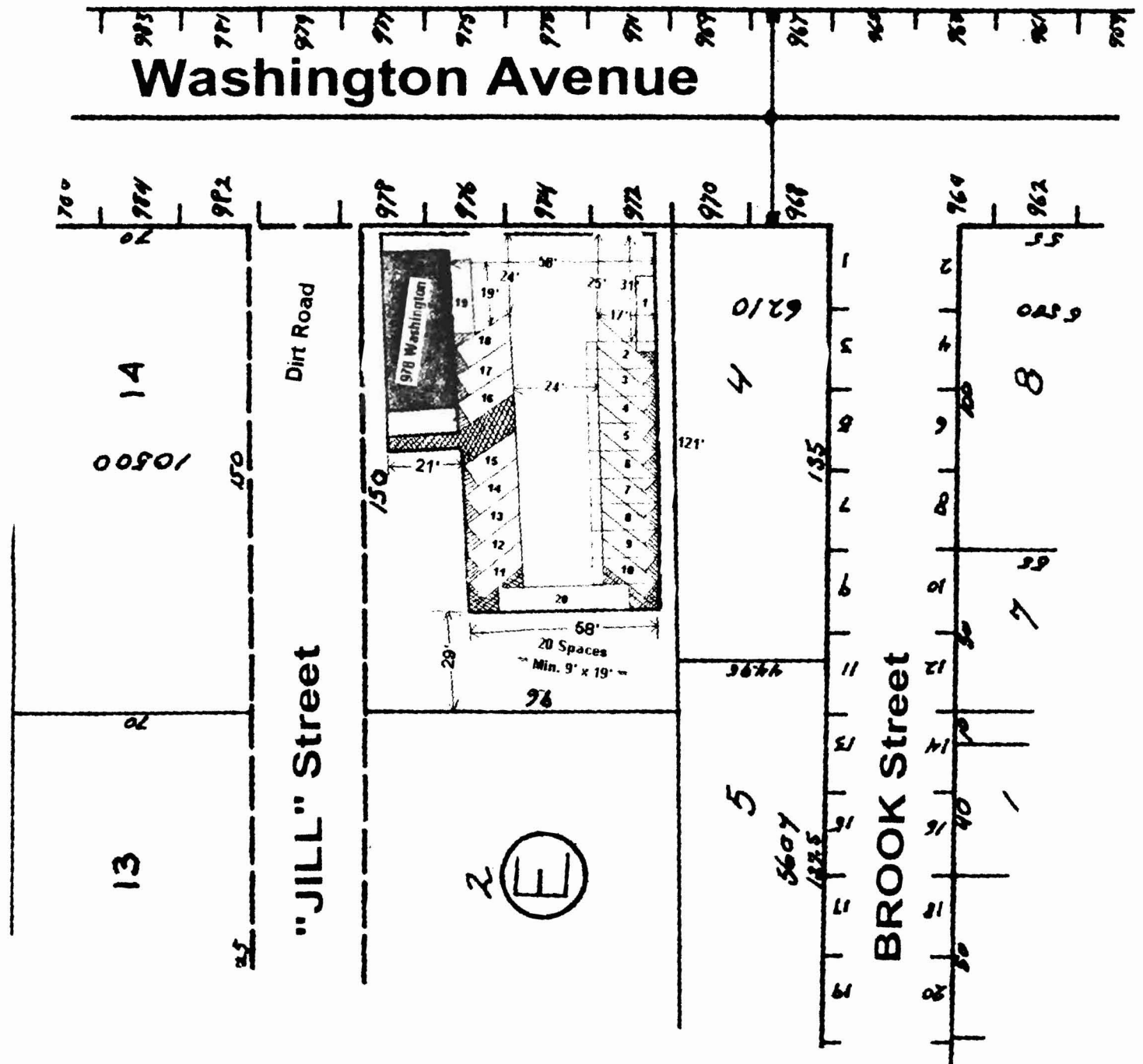
3. Adjournment: 9:10 pm

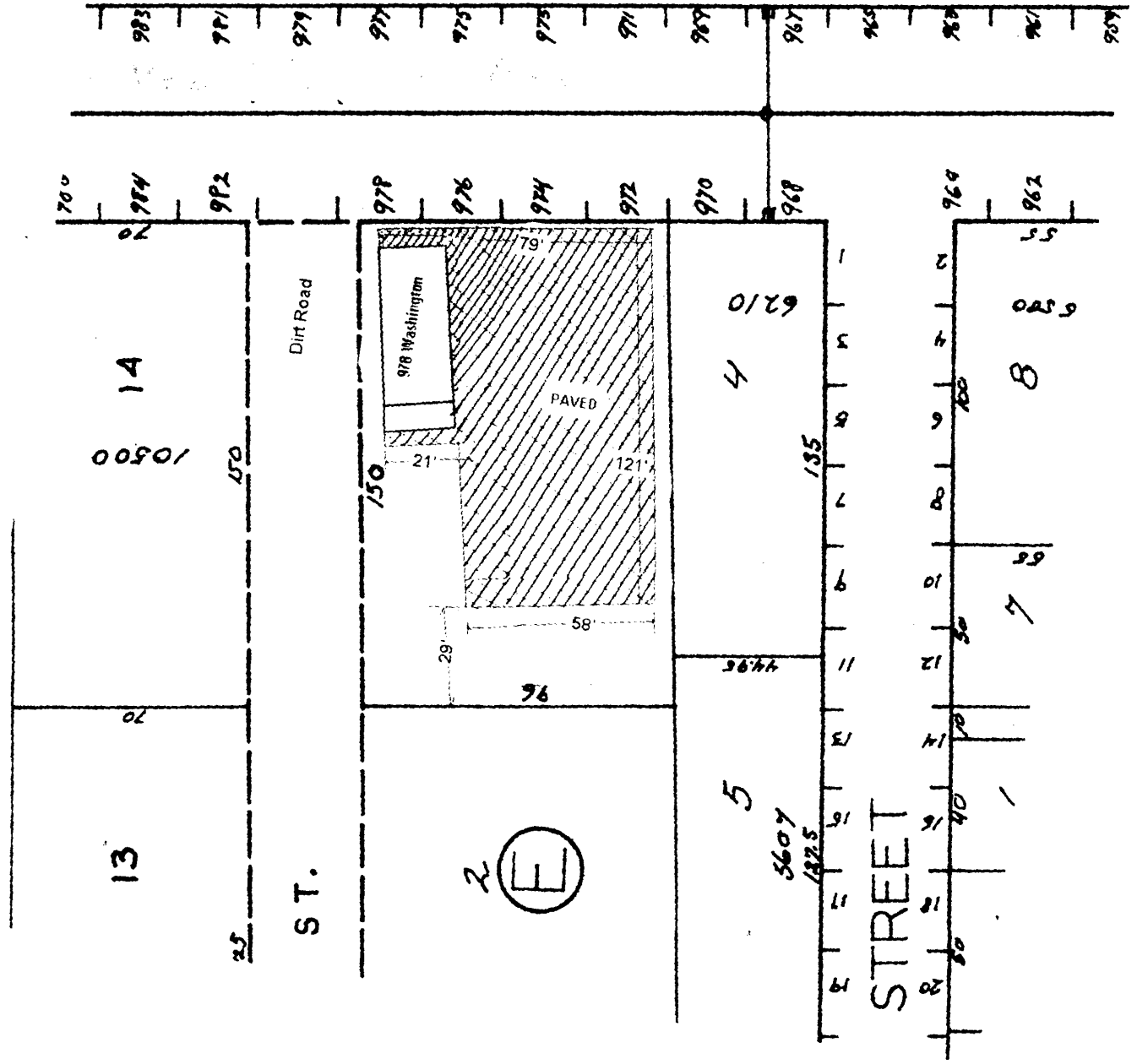
Denied
S-C

Withdrawn
by the
applicant
and the withdrawal
was accepted
by the Board

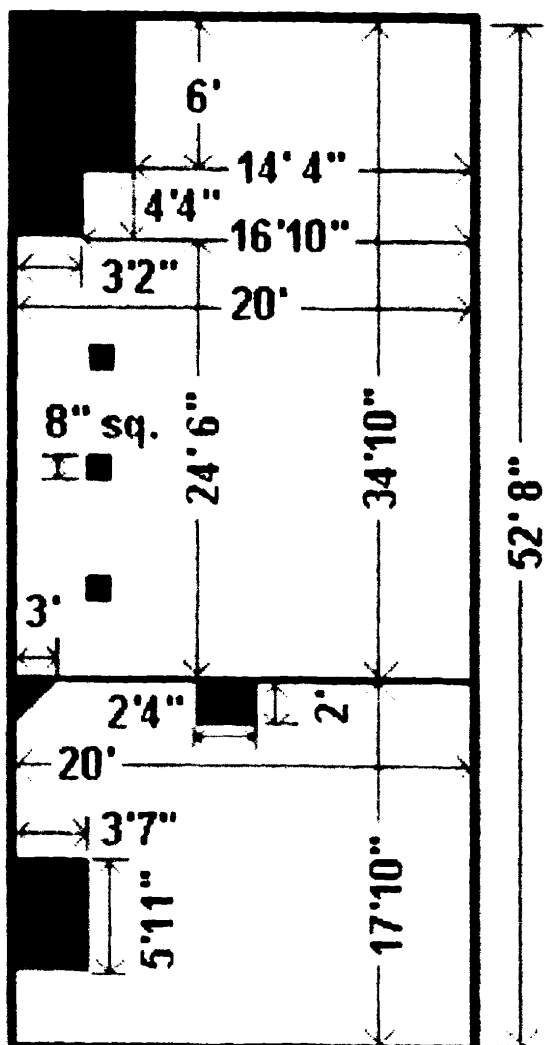
Sadri Shir
978 Washington Avenue

20 Spaces / 9' x 19' Minimum
24' Minimum Aisle and Entrance





Sadri Shir
978 Washington Avenue
First Floor Layout



Total Floor Area = 1053.34 sq.ft.

Less:

Backroom:

Chimney = 4.67 sq.ft.

Stairway = 21.2 sq.ft.

Wire way = 4.5 sq.ft.

Frontroom:

Stairway = 47.73 sq.ft.

Support Posts = 1.5 sq.ft.

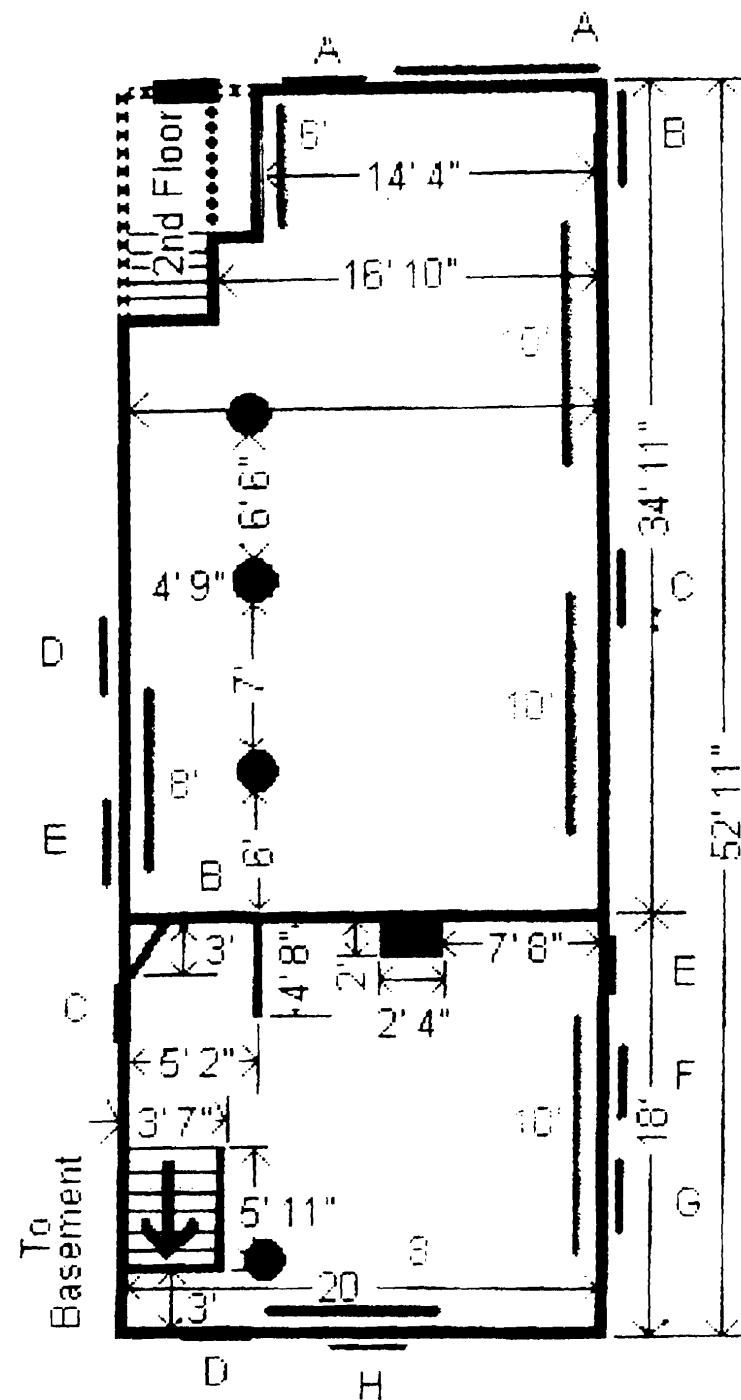
(8" square 0.5 sq.ft. X 3)

Total Obstruction to Floor Space = 79.6 sq.ft.

First Floor Area = **973.74 sq.ft.**

Washington Avenue Apartments
Washington Avenue Front

Basic Floor Layout



Base Board heaters

Chimney

Support Poles

RO
Windows

A	8' 10" X 5' 5" H
B	3' 9" X 5' 6" H
C	32" X 61" H
D	30" X 58" H
E	31" X 59" H
F	29" X 56" H
G	29" X 56" H
H	36" X 56" H

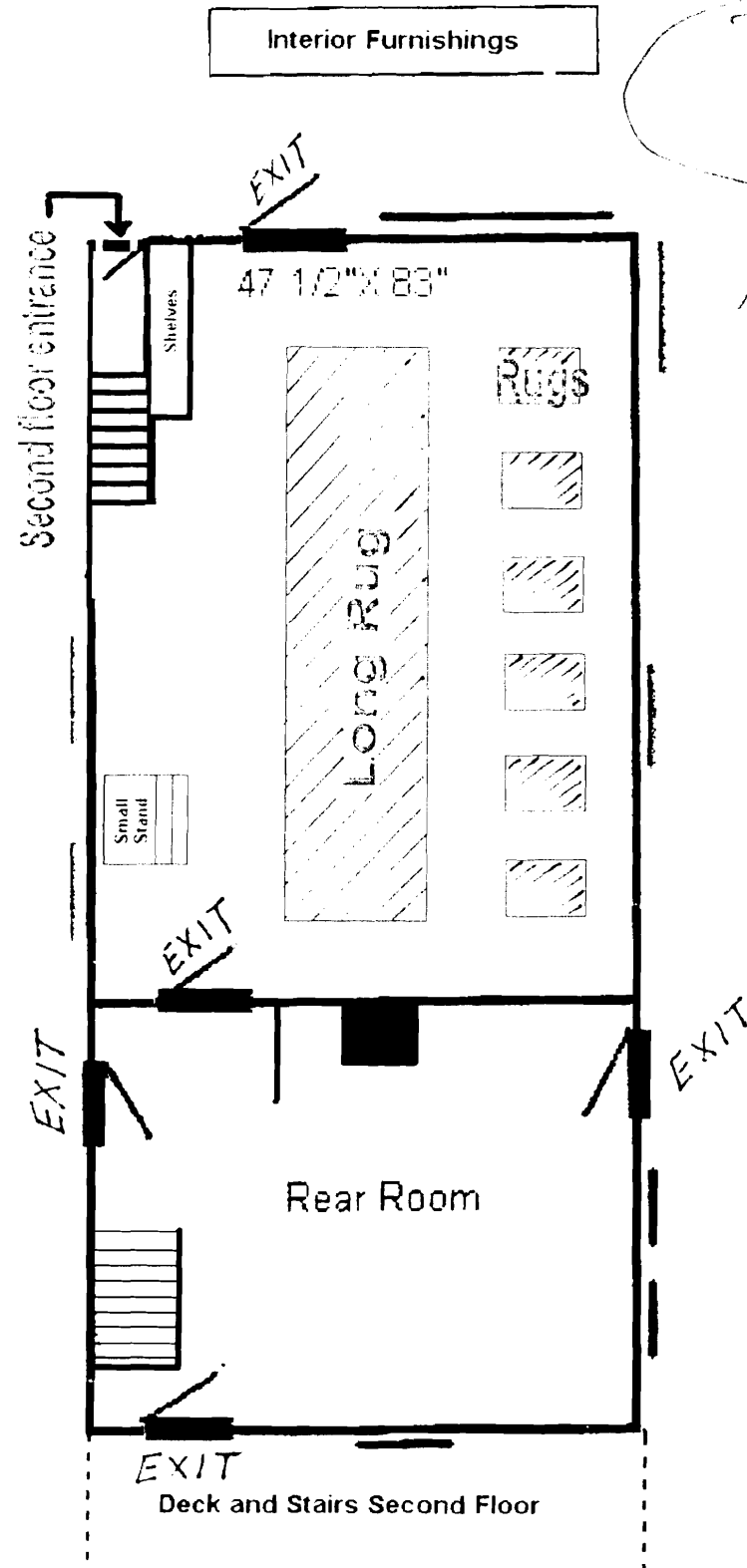
Doors

A	47 1/2" X 63"
B	32" X 79"
C	31" X 79"
D	32" X 79"
E	31" X 79"

Sadr Shir Misc. Details
First Floor Ceiling 8' 3"
Stair Case Slope at Right of Entry
36" to 6' 10" on 4' Span / 3' 2" Width
Back Room Ceiling 7' 9"

Quality-One

Washington Avenue Apartments

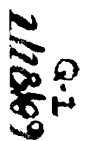


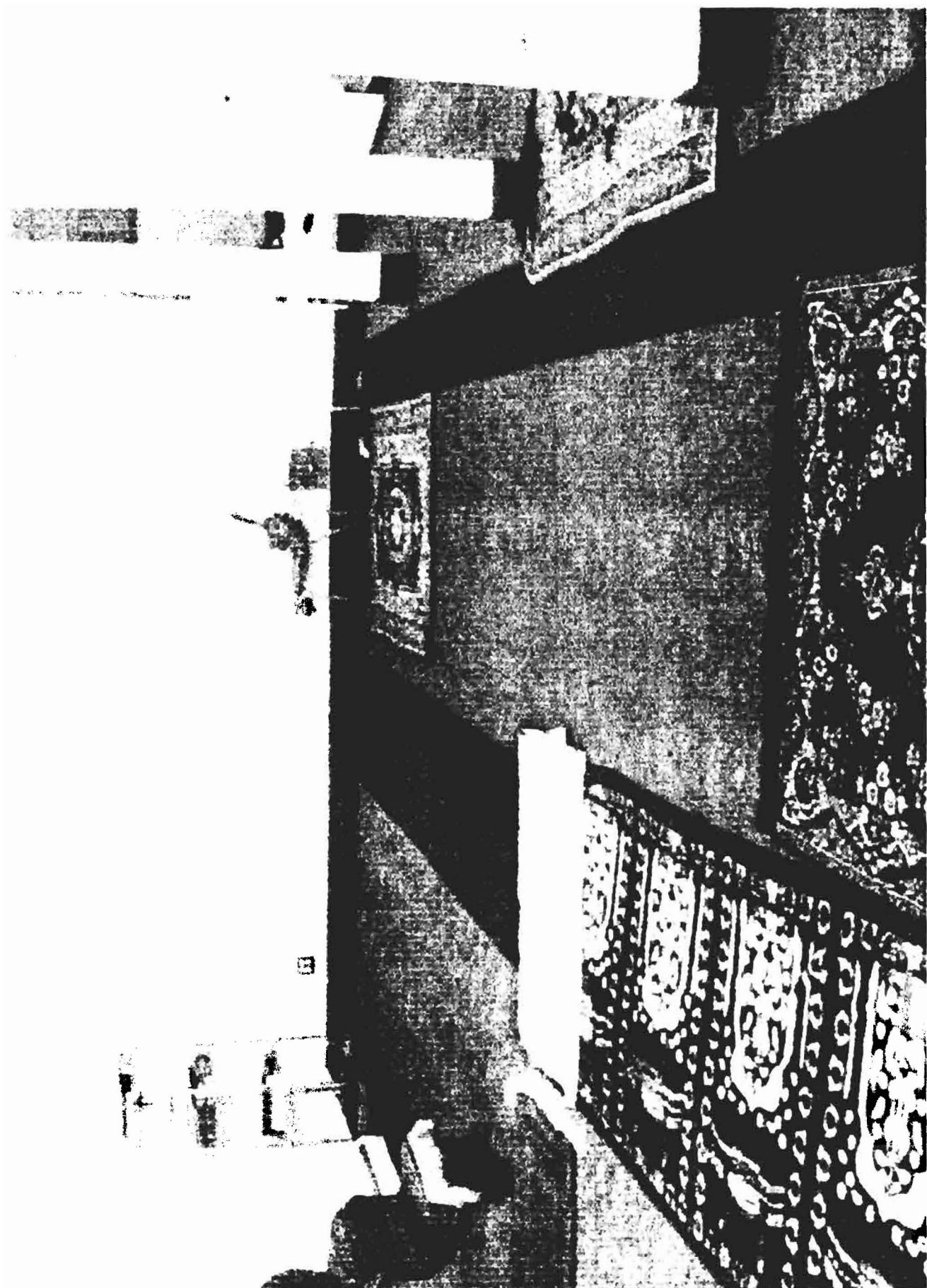
Occupancy Load
MAX. 66 people
Jeanne B.

per building footprint

Sadri Shir
Owner

Quality-One
2/27/2009







WARRANTY DEED

KNOW ALL BY THESE PRESENTS, that we, MARY N. BLESSING, JUSTINA IVES, JEANNETTE A. BREGGIA, JOHN DIMILLO, all of Portland, Maine and ADELIA JACKSON, of North Carolina, in consideration of One and No/100 Dollars (\$1.00) and other valuable consideration paid by SADRI SHAIR whose mailing address is 41 Ocean House Road, Cape Elizabeth, Maine, the receipt whereof we do hereby acknowledge, do hereby GIVE, GRANT, BARGAIN, SELL AND CONVEY, WITH WARRANTY COVENANTS unto the said Sadri Shair, her heirs, her successors and assigns forever, the following described premises:

See Schedule A attached hereto and made a part hereof.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said Sadri Shair, her heirs, her successors and assigns forever. We do covenant with the said Grantee, her heirs, her successors and assigns, that we are lawfully seized in fee of the premises, free of all encumbrances and that we do have good right to sell and convey the same to the said Grantees to hold as aforesaid; and that we and our successors shall and will warrant and defend the same to the said Grantee, her heirs, her successors and assigns, forever, against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, we, the said Mary N. Blessing, Justina Ives, Jeannette A. Breggia, John DiMillo, and Adelia C. Jackson have caused these presents to be signed this 30th day of November, 2005.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Burgh
Witness

Burgh
Witness

Burgh
Witness

Burgh
Witness

Adelia C. Jackson
Witness

Mary N. Blessing
Mary N. Blessing

Justina Ives
Justina Ives

Jeannette A. Breggia
Jeannette A. Breggia

John DiMillo
John DiMillo

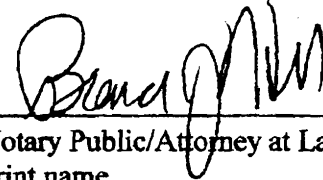
Adelia C. Jackson
Adelia C. Jackson

MAINE REAL ESTATE TAX PAID

STATE OF MAINE
COUNTY OF Cumberland

11-30-05, 2005

Then personally appeared the above-named Mary N. Blessing, Justina Ives, Jeannette A. Breggia, John DiMillo and acknowledged the foregoing instrument to be their free acts and deeds before me,



Notary Public/Attorney at Law

print name _____

my comm. exp. Brenda J. Hall

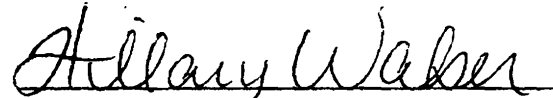
Notary Public, Maine

My Commission Exp: 3/9/06

STATE OF NORTH CAROLINA
COUNTY OF Guilford

11-29-05, 2005

Then personally appeared the above-named Adelia C. Jackson and acknowledged the foregoing instrument to be their free acts and deeds before me,



Notary Public/Attorney at Law

print name Hillary WALSER

my comm. exp. 12-11-2008

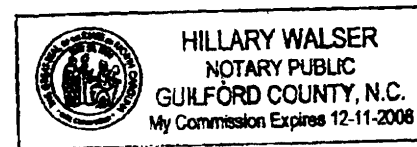


EXHIBIT A

A certain lot or parcel of land with the building thereon, situated on the Southwesterly side of Washington Avenue, formerly called Main Street, in said Portland, and bounded and described as follows:

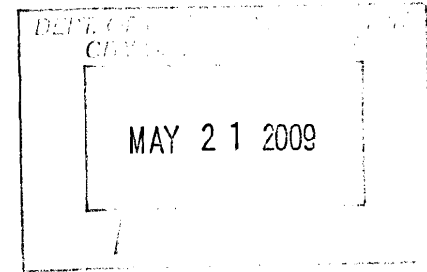
Beginning at a point in the Southwesterly side line of said Washington Avenue, at the Northwestern corner of land which Arthur E. Marks conveyed to Charles Murphy, by deed dated April 18, 1894, and recorded in Cumberland County Registry of Deeds, Book 610, Page 284, and now or formerly owned by one Speirs; thence Northwesterly by said Washington Avenue, ninety-six (96) feet to a point two (2) feet Northwesterly of the Northwesterly side line extended of the two story building containing the store and dwelling house on said lot; thence Southwesterly on a line parallel to the Northwesterly side line of said Speirs land one hundred fifty (150) feet to a point; thence Southeasterly by land now or formerly of Antonio Leo and on a line parallel to said Washington Avenue ninety-six (96) feet to the Northwesterly side line of land of one Harris, same being a continuation of the Northwesterly side line of said Speirs land; thence Northeasterly by said Harris and Speirs land, one hundred fifty (150) feet to the point of beginning.

Meaning and intending to convey the same premise conveyed to Mary N. Blessing, Justina Ives, Jeannette A. Breggia, John DiMillo, and Adelia C. Jackson by Mary N. Blessing, Personal Representative for the Estate of Rose DiMillo by Deed of Distribution by Personal Representative dated July 31, 2003, and recorded in said Registry of Deeds, in Book 20508, Page 195.

Received
Recorded Register of Deeds
Dec 02, 2005 12:32:32P
Cumberland County
John B O'Brien

May 19, 2009

Marge Schmuckal, Zoning Administrator
Zoning Division
389 Congress Street
Portland, ME 04102



Re: Letter of Authorization

To Whom It May Concern:

This letter authorizes Shukria Wiar to act as an agent for all zoning and permitting matters in connection with the 978 Washington Avenue property in Portland, ME.

Sincerely,

Sadri Shir

Sadri Shir



Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

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

April 13, 2009

Sadri Shir
41 Ocean House Road
Cape Elizabeth, ME 04107

Re: 978 Washington Avenue – 161 E003 – R-5 – Change of use to place of worship –
Permit #09-0161

Dear Sadri Shir,

I am in receipt of your application to change the use of the first floor of 978 Washington Avenue from a television repair shop to a religious use/place of worship. At this point I cannot approve your permit because it does not meet all the zoning requirements for the R-5 zone.

One requirement is that you need to meet the minimum lot size. Your lot is 14,400 square feet, and the required minimum lot size for a place of worship or religious use under section 14-120(1)(a)(5) is one acre (43,560 square feet). You need to apply for a Practical Difficulty Variance with the Zoning Board of Appeals since you do not meet the minimum lot size.

The second requirement is that when there is a change of use, you need to meet the minimum parking requirements for the use of the building. Your parking plan shows that you have twenty off street parking spaces. You need a total of forty off-street parking spaces, thirty-nine parking spaces for a place of worship/religious use [section 14-332(k)] and one parking space for the existing dwelling unit on the second floor [section 14-332(a)(2)]. You need to apply for a variance with the Zoning Board of Appeals since you do not have the required number of parking spaces.

If you are granted these two variances, your next step is to apply for a conditional use under section 14-118(b)(3) and your submitted site plan for the expanded parking lot must be revised and completed for review. The Planning Board is the reviewing authority for the conditional use appeal and the site plan. A copy of the site plan ordinance is attached. The submittal requirements for a complete application are found in section 14-525.

Your permit cannot be approved by zoning until you have successfully completed these three steps. I have enclosed the applications for the two variances and a sheet which

outlines the application process for the Zoning Board of Appeals. The contact person in the Planning Division for the conditional use appeal and the site plan for the expanded parking lot is Barbara Barhydt at 874-8699. Remember, you will also need to meet the requirements of the building and life safety codes.

You have the right to appeal my decision concerning use. If you wish to exercise your right to appeal, you have thirty (30) days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork that is required to file an appeal.

Please feel free to call me at 874-8695 if you have any questions.

Yours truly,



Marge Schmuckal
Zoning Administrator

Cc. Penny St. Louis Littell, Director of Planning and Urban Development
Gary Wood, Corporation Counsel
Barbara Barhydt, Development Review Services Manager
Tammy Munson, Inspections Division Director
Jeanie Bourke, Code Enforcement Officer
Richard Jordan
File

978 Washington Avenue City of Portland, Maine

Application for Change of Use ONLY

copy

No building changes: Walls or permanent partitions, plumbing or electrical, renovations, windows, doors, insulation or other changes other than the proposed use of the building are planned at this time.

Should they be needed in the future, separate permit application(s) will be submitted when required.

Prior use: First Floor:

**Consumer Electronic Repair Shop
“Dick Waterhouse TV Repair”**

Second Floor:

Rental Single Unit

Proposed Use: First Floor:

Assembly Hall

Second Floor:

No Change

**Attached: Lot and building drawing. Interior first floor layout.
Change of use applications.**

ORIGINAL
Signed & dated
Change of Use application
____/____/2009

Sadri Shir, Owner
41 Ocean House Road
Cape Elizabeth, Maine 04107
(207) 228-5040

2/28/2009

Development Review Application

copy

Proposed development:

Paved existing, crushed stone parking lot at 978 Washington Avenue. Approximate size: 58' x 121' / 7018 sq. ft.

**Chart # 161 Block # E Lot # 3 Page/Book 23454/156
Parcel ID # 161-E003001 R5 Zone**

Site Drawings and Pictures Attached.

Separate Change of Use Permit Application also submitted for Assembly Hall. Previous use: Television Repair Shop.

Sadri Shir

ORIGINAL
Signed & dated
7/2/09
Cover letter for site plan review

Date ____/____/2009



General Building Permit Application

I, you, or the property owner, own, rent, lease, or possess property, and, in such capacity, do and property within the City of Portland, Maine, and hereby certify that the information provided on this application is true and correct.

Location Address of Construction: <u>278 Washington Ave</u>			
Total Square Footage of Proposed Structure Area: <u>N/A</u>		Square Footage of Lot: <u>14,400</u>	Number of Stories: <u>2</u>
Tax Assessor's Chart, Block & Lot Chart# <u>161</u> Block# <u>E</u> Lot# <u>3</u>	Applicant must be owner, Lessee or Buyer Name: <u>Sadri Shir</u> Address: <u>41 Ocean House Rd.</u> City, State & Zip: <u>Cape Elizabeth ME 04107</u>		Telephone: <u>(207) 541-7221-OR-775-6789</u>
Lessee/DBA (If Applicable):	Name (if different from Applicant): <u>Richard Jordan</u> Address: <u>26 Ashswamp Rd.</u> City, State & Zip: <u>Scarborough, ME 04107</u>		Cost Of Work: \$ <u>1126.00</u> C of O Fee: \$ <u> </u> Total Fee: \$ <u>40 + 100</u>
Current legal use (i.e. single family): <u>2nd floor/single family</u> Number of Residential Units: <u>1</u> If vacant, what was the previous use? <u>1st floor/vacant/Television Repair Shop</u> Proposed Specific use: <u>2nd floor Residential</u> <u>1st floor vacant/future use to be</u> Is property part of a subdivision? <u>No</u> If yes, please name <u>applied for</u> Project description: <u>Replace three existing windows on first floor</u>			
Contractor's name: <u>Richard Jordan / dba / Quality One</u> Address: <u>26 Ashswamp Rd.</u> City, State & Zip: <u>Scarborough Maine 04107</u> Telephone: <u>(207) 831-8102</u> Who should we contact when the permit is ready: <u>Richard Jordan</u> Telephone: <u>831-8102</u> Mailing address: <u>Same as above</u>			

Please submit all of the information outlined on the applicable 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 or to download copies of this form and other applications visit the Inspections Division on-line at www.portlandmaine.gov, or stop by the Inspections Division 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: Richard Jordan

Date: 11/21/2008

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



CITY OF PORTLAND, MAINE

Department of Building Inspections

copy

Original Receipt

March 3 2009

Received from

Sadri Shir

Location of Work

978 Washington

Cost of Construction

\$ Ø

Building Fee: 50.00 Lak Fee

Permit Fee

\$ 30.00

Site Fee:

Certificate of Occupancy Fee: 75.00

Total: 155.00

Building (IL) ☒

Plumbing (IS) ☐

Electrical (I2) ☐

Site Plan (I2) ☐

Other ☐

CBL:

161-E-003

Check #:

262

Total Collected \$ 155.00

No work is to be started until permit issued.

If permit is Withdrawn or Denied, amount of the Refund is based on \$20.00 or 20% of the fee, (whichever is greater)

In order to receive a refund, you MUST present the Original Receipt.

Taken by:

SMB

WHITE - Applicant's Copy

YELLOW - Office Copy

PINK - Permit Copy



GENERAL RECEIPT

COPY

CITY OF PORTLAND, MAINE

DEPARTMENT

Planning and Development

DATE

3/03/09

RECEIVED FROM

ADDRESS

978 Washington Ave

UNIT	ITEM	REVENUE CODE	DOLLAR AMOUNT
	Site Plan		400.00
	Dev Rev Deposit		200.00
	CK# 263		

☐ CASH ☒ CHECK ☐ OTHER

TOTAL

600.00

RECEIVED BY

M. Stone



CITY OF PORTLAND APPLICATION PROCESS FOR THE ZONING BOARD OF APPEALS

Attached you will find the schedule for the Zoning Board of Appeals meetings. The deadline for the submissions is on the left hand side; the meeting dates are on the right hand side.

Eleven (11) separate packets of the following must be submitted to hold a place on the Agenda:

- a. Copy of Appeal application.
- b. Cover letter addressed to the Zoning Board of Appeals stating what you want to do.
- c. Plot plan showing the site and location of all structures, existing and proposed, in relation to the lot lines and, if applicable, indicate parking. Lot size and setback dimensions must be shown.
- d. Floor plan, if applicable, showing dimensions of existing and proposed rooms and/or structures.
- e. Copy of the tax map (obtained in the Assessors Office) with the property highlighted.
- f. Photos of property.
- g. Deed, sales agreement, lease or intent to lease.
- h. Owner, lessee, prospective purchase or legal representation must sign the application
- i. A letter from the property owner giving permission to the applicant to represent the property if applicable.
- j. All plans must also be folded neatly with each packet and banded.

If additional information is needed to complete the packet for the Zoning Board of Appeals you will be notified. Please make sure you include a contact phone number on your cover letter. If we cannot contact you, the item may be tabled until the next regular meeting.

The application fee is \$100.00 to appear before the Zoning Board of Appeals. Please note that the applicant is also responsible for the cost of the legal ad in the Portland Press Herald, and the cost of sending abutters notification within 500' of the subject property. The City will bill you for the legal ad and abutters notification.

You may apply for an appeal/permit at City Hall, Room 315 Monday through Friday between 8:00 am and 4:00 pm. **If you choose to file on the deadline date, please note that applications are accepted only until noon on that day.**

You will be sent a letter confirming the time and date of the scheduled meeting along with an Agenda.

**PORTLAND ZONING BOARD OF APPEALS
2009 MEETING SCHEDULE
THURSDAYS ROOM #209, PORTLAND CITY HALL**

Turn in before 4/13

DEADLINE FOR SUBMISSIONS OF APPEALS – 12:00 NOON ON:	MEETING DATES 6:30 PM
DECEMBER 22, 2008 -----	JANUARY 8, 2009
JANUARY 5, 2009 -----	JANUARY 22, 2009
JANUARY 20, 2009 -----	FEBRUARY 5 TH
FEBRUARY 2 ND -----	FEBRUARY 19 TH
FEBRUARY 17 TH -----	MARCH 5 TH
MARCH 2 ND -----	MARCH 19 TH
MARCH 16 TH -----	APRIL 2 ND
MARCH 30 TH -----	APRIL 16 TH
APRIL 20 TH -----	MAY 7 TH
May 4 TH -----	MAY 21 ST
* MAY 18 TH -----	JUNE 4 TH
JUNE 1 ST -----	JUNE 18 TH
JUNE 29 TH -----	JULY 16 TH
JULY 20 TH -----	AUGUST 6 TH
AUGUST 3 RD -----	AUGUST 20 TH
AUGUST 17 TH -----	SEPTEMBER 3 RD
AUGUST 31 ST -----	SEPTEMBER 17 TH
SEPTEMBER 14 TH -----	OCTOBER 1 ST
SEPTEMBER 29 TH -----	OCTOBER 15 TH
OCTOBER 26 TH -----	NOVEMBER 12 TH
NOVEMBER 16 TH -----	DECEMBER 3 RD
DECEMBER 21 ST -----	JANUARY 7, 2010

X. Scott Shiff

where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. In order for the Board to find "undue hardship", the applicant must answer ALL of the following questions, and provide supporting evidence. The Board will consider this evidence in deciding whether to grant the appeal.

Received
applicant
received
5/21/09

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

(refer below)
Yes _____ (deny the appeal) No _____

Reasons "Reasonable return" is not the owners objective.

2. Are there factors which are unique to this property, and not to the general conditions of the neighborhood, which create a need for a variance?

Yes X No _____ (deny the appeal)

Reasons Does not meet minimum lot size for intended
use.

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

Yes _____ (deny the appeal) No X

Reasons Prior uses include television repair shop,
laundromat, convenience store

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

Yes _____ (deny the appeal) No X

Reasons Wishes to change use to religious assembly
hall

It is up to the applicant to decide whether to file an appeal after reviewing the above requirements.

Zoning Board of Appeals

5/8/2009

rev. seal cover letter
received 5/21/09

**Cover Letter: 978 Washington Avenue
Chart: 161 Block: E Zone: R-5**

RE: Variance Appeal Application

First Floor:

**Prior Use: Consumer Electronics Repair Shop
Dick Waterhouse TV Center**

Proposed Use: Place of Worship Permit #09-0161

Second Floor: Residential Rental Unit

Prior Use: No change

Additional Notes:

No structural or renovations proposed or needed. First floor wide open (refer enclosed picture and floor layout). Furnishing is limited to rugs and one small, movable podium (approximately 3'x 3'x 2' high).

Off road, paved parking is provided for 20 vehicles. (9'x 19' spaces with 24' aisle). This parking area is more than adequate for the small number of people visiting this hall for assembly and prayer (parking includes a separate space for the tenant in the second floor apartment).

Primary use will be on Friday PM and Saturday AM with occasional usage during the week by individuals seeking to worship. The total traffic load should be significantly less than the prior retail electronics shop.

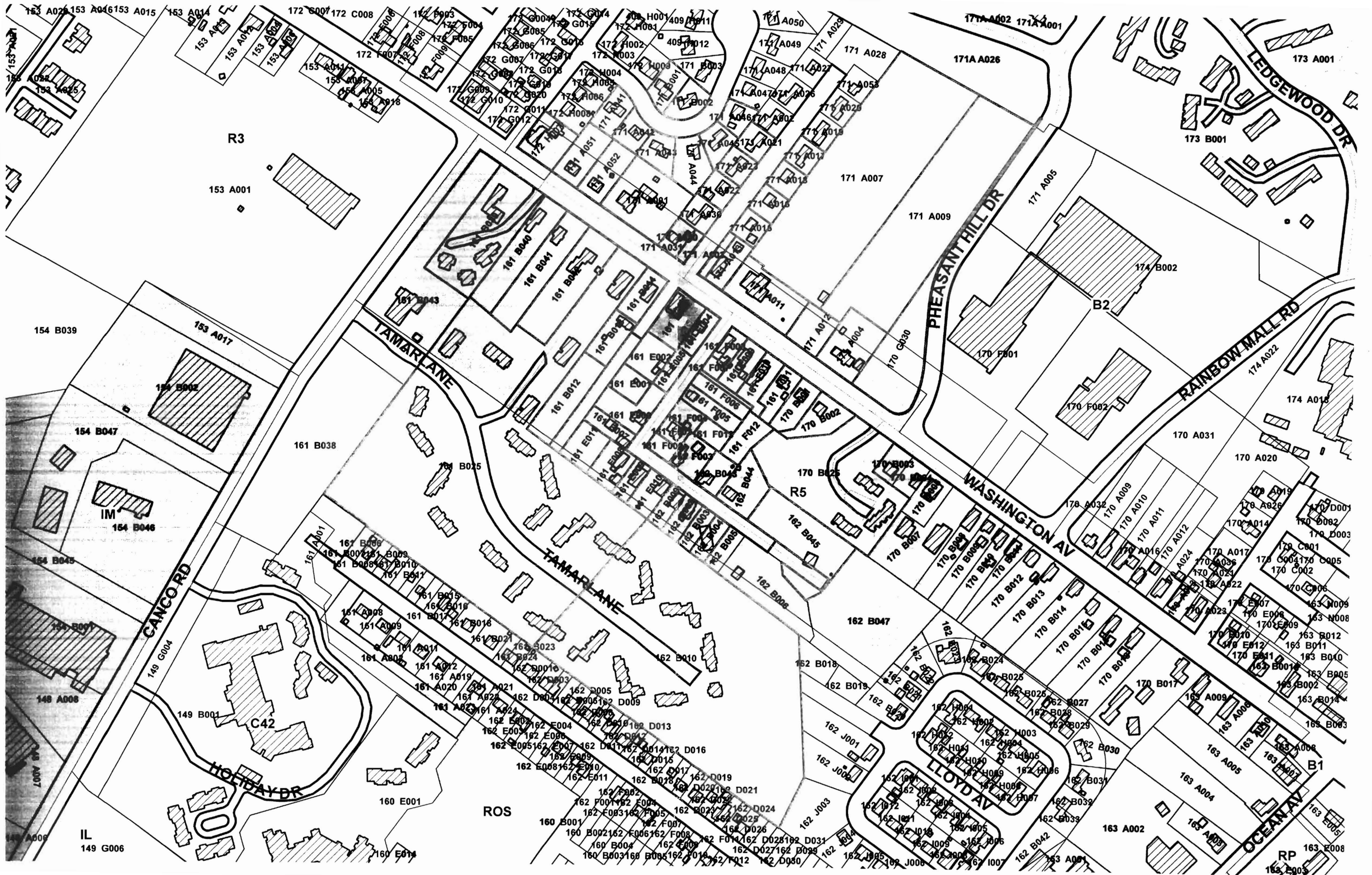
**Sadri Shir, Owner
41 Ocean House Road
Cape Elizabeth, ME 04107**

Phone: 207-228-5040

Thank You.

Sincerely,

Sadri Shir



CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
161 B011001	HOPE SETH R	PO BOX 6823 SCARBOROUGH, ME 04070	173 MURRAY ST	1
161 B025001	RRE TAMARLANE HOLDINGS LLC	ONE CRESCENT DR STE 203 PHILADELPHIA , PA 19112	988 WASHINGTON AVE	91
161 B039001	BROCHU ROBERT J & ANNE L BROCHU JTS	1024 WASHINGTON AVE #1 PORTLAND , ME 04103	1024 WASHINGTON AVE	1
161 B039002	HEBOLD DAREN & ERICA HEBOLD JTS	411 CHANDLERS WHARF PORTLAND , ME 04101	1024 WASHINGTON AVE	1
161 B039003	KERR CATHERINE W	1024 WASHINGTON AVE # 3 PORTLAND , ME 04103	1024 WASHINGTON AVE	1
161 B039004	MARTIN CATHERINE A	1024 WASHINGTON AVE #4 PORTLAND, ME 04103	1024 WASHINGTON AVE	1
161 B039005	CRANE THOMAS M	20 BELMONT ST PORTLAND, ME 04101	1024 WASHINGTON AVE	1
161 B039006	GULLICK GEORGE	1024 WASHINGTON AVE # 6 PORTLAND , ME 04103	1024 WASHINGTON AVE	1
161 B039007	STARRETT ALAN N & DARCY W	1024 WASHINGTON AVE UNIT #7 PORTLAND, ME 04103	1024 WASHINGTON AVE	1
161 B039008	HALSEY LEAH	1024 WASHINGTON AVE # 8 PORTLAND , ME 04103	1024 WASHINGTON AVE	1
161 B039009	LEVINE ELLEN E	1024 WASHINGTON AVE #9 PORTLAND , ME 04103	1024 WASHINGTON AVE	1
161 B039010	PALMACCI-JOHNSON JO ANN	1024 WASHINGTON AVE # 10 PORTLAND , ME 04103	1024 WASHINGTON AVE	1
161 B040001	HATT YUN OK	3 HOWARD ST APT 3 PORTLAND , ME 04101	1014 WASHINGTON AVE	3
161 B041001	PORT RESOURCES INC	P O BOX 2832 SO PORTLAND, ME 04106	1008 WASHINGTON AVE	2
161 B042001	HUBER FREDERICK G & JENNIFER L JTS	1000 WASHINGTON AVE PORTLAND, ME 04103	1000 WASHINGTON AVE	1
161 E001001	TOPPI ROCCO III & MARY M JTS	17 FALLBROOK ST PORTLAND, ME 04103	17 FALL BROOK ST	1
161 E003001	SHIR SADRI	41 OCEAN HOUSE RD CAPE ELIZABETH , ME 04107	978 WASHINGTON AVE	1
161 E004001	TROIANO ELEANOR W WID WWII	970 WASHINGTON AVE PORTLAND , ME 04103	970 WASHINGTON AVE	1
161 E006001	CARIGNAN ROGER P	29 FALL BROOK ST PORTLAND, ME 04103	29 FALL BROOK ST	2
161 E007001	DYER GLEN D & JANE M DYER JTS	35 FALL BROOK ST PORTLAND , ME 04103	35 FALL BROOK ST	1
161 E008001	SIMPSON WILLIAM P	PO BOX 641 FREEPORT , ME 04032	37 FALL BROOK ST	2
161 E009001	VASSALLO MICHAEL J & NANCY A JTS	43 FALL BROOK ST PORTLAND, ME 04103	43 FALL BROOK ST	2
161 E010001	CHITTICK DAVID B & PATRICIA S JTS	74 FROST HILL RD PORTLAND, ME 04103	47 FALL BROOK ST	2
161 E011001	SIMPSON WILLIAM P	PO BOX 641 FREEPORT , ME 04032	37 FALL BROOK ST	1
161 F001001	PYNE LUCINDA J	28 FALL BROOK ST PORTLAND , ME 04103	32 FALL BROOK ST	1
161 F002001	PYNE LUCINDA J	28 FALLBROOK ST PORTLAND , ME 04103	28 FALL BROOK ST	2
161 F003001	DOWNES ELEANOR L	48 FALL BROOK ST PORTLAND, ME 04103	48 FALL BROOK ST	1
161 F005001	DUNKERLEY ELIZABETH	16 OLD SALT RD OLD ORCHARD BEACH, ME 04064	20 FALL BROOK ST	1
161 F007001	WETMORE DENNIS B & ROBERTA A COATES &	962 WASHINGTON AVE PORTLAND , ME 04103	10 FALL BROOK ST	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
161 F008001	WETMORE DENNIS B & ROBERTA A COATES &	962 WASHINGTON AVE PORTLAND, ME 04103	962 WASHINGTON AVE	1
161 F009001	HARBAUGH BETTY ANN	958 WASHINGTON AVE PORTLAND, ME 04103	958 WASHINGTON AVE	1
161 F010001	ANDERSON RACHEL	201 FALMOUTH RD FALMOUTH, ME 04105	956 WASHINGTON AVE	3
161 F011001	CHAU TIEN TAN & NU NGOC DAO	948 WASHINGTON AVE PORTLAND, ME 04103	948 WASHINGTON AVE	1
161 F014001	WETMORE DENNIS B & ROBERTA A COATES &	962 WASHINGTON AVE PORTLAND, ME 04103	14 FALL BROOK ST	1
162 B002001	YOUNG CHARLES T & DARLENE A	57 FALL BROOK ST PORTLAND, ME 04103	57 FALL BROOK ST	1
162 B004001	LORANGER ROBERT J & DEBORAH A JTS	10 ROBIN LN FALMOUTH, ME 04105	63 FALL BROOK ST	3
162 B009001	BURKHART LESLIE T	53 FALL BROOK ST PORTLAND, ME 04103	53 FALL BROOK ST	1
162 B043001	LYDEN JOHN F & IOLA JTS	56 FALL BROOK ST PORTLAND, ME 04103	56 FALL BROOK ST	1
162 B044001	MARINO SANDRA J	62 FALL BROOK ST PORTLAND, ME 04103	62 FALL BROOK ST	1
162 B045001	CICCOMANCINI TOMASSO & SUZANNE I JIMENEZ	80 FALL BROOK ST PORTLAND, ME 04103	80 FALL BROOK ST	1
170 B001001	BITHER DOUGLAS N	942 WASHINGTON AVE PORTLAND, ME 04103	942 WASHINGTON AVE	1
170 B002001	ACEDO LAURA J & LISE J WILCOX JTS	936 WASHINGTON AVE PORTLAND, ME 04103	936 WASHINGTON AVE	1
170 B025001	MENGES JOYCE A	1 PINE LEDGE TER PORTLAND, ME 04103	9 PINE LEDGE TER	1
170 B025002	WILBUR PATRICIA A	2 PINE LEDGE TER PORTLAND, ME 04103	2 PINE LEDGE TER	1
170 B025003	RIOUX ANNETTE M	3 PINE LEDGE TERR PORTLAND, ME 04103	3 PINE LEDGE TER	1
170 B025004	BERGERON ROBERT L KW VET	4 PINE LEDGE TER PORTLAND, ME 04103	4 PINE LEDGE TER	1
170 B025005	COFFIN CHERYLL L	918 WASHINGTON AVE # 5 PORTLAND, ME 04103	5 PINE LEDGE TER	1
170 B025006	PRUNEAU PAULETTE R	6 PINE LEDGE TER PORTLAND, ME 04103	6 PINE LEDGE TER	1
170 B025007	CALHOUN SUSAN M	7 PINELEDGE TER PORTLAND, ME 04103	7 PINE LEDGE TER	1
170 B025008	PUTNEY RUTH E WID WWII VET	PINELEDGE TER # 8 PORTLAND, ME 04103	8 PINE LEDGE TER	1
170 B025009	DAVIS CHRISTINA M	9 PINE LEDGE TER PORTLAND, ME 04103	9 PINE LEDGE TER	1
170 B025010	PAPKEE PATRICIA A & CHRISTOPHER PAPKEE JTS	10 PINE LEDGE TER PORTLAND, ME 04103	10 PINE LEDGE TER	1
170 B025011	DEMIREI FILIZ	11 PINE LEDGE TER PORTLAND, ME 04103	11 PINE LEDGE TER	1
170 B025012	NEKOIE BAHMAN & CATHERINE E BOYD JTS	40 COTTAGE PARK RD PORTLAND, ME 04103	12 PINE LEDGE TER	1
170 B025013	GUTMANN JEAN E	918 WASHINGTON AVE # 13 PORTLAND, ME 04103	13 PINE LEDGE TER	1
170 G030001	BROWN J B & SONS	PO BOX 207 PORTLAND, ME 04112	923 WASHINGTON AVE	1
171 A001001	SCARKS MICHAEL	120 EXCHANGE ST PORTLAND, ME 04101	997 WASHINGTON AVE	13
171 A003001	HOEUNG HENG & VANNY POV JTS	973 WASHINGTON AVE PORTLAND, ME 04103	973 WASHINGTON AVE	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
171 A004001	ROAK LEIGH A	937 WASHINGTON AVE PORTLAND , ME 04103	937 WASHINGTON AVE	2
171 A007001	CHEVERUS HIGH SCHOOL	267 OCEAN AVE PORTLAND , ME 04103	951 WASHINGTON AVE	1
171 A010001	POMERLEAU RAYMOND E & RENA M OR SURV	985 WASHINGTON AVE PORTLAND, ME 04103	985 WASHINGTON AVE	1
171 A011001	MELOON GEORGE H INC	963 WASHINGTON AVE PORTLAND , ME 04103	963 WASHINGTON AVE	2
171 A015001	BLAYNE KATHRYN L	15 MALILLY RD PORTLAND , ME 04103	15 MALILLY RD	1
171 A016001	SMITH GREGORY A & DEBORAH L JTS	21 MALILLY RD PORTLAND , ME 04101	21 MALILLY RD	1
171 A017001	LEWIS WAYNE A & KRISTIN M HODGSON JTS	37 MALILLY RD PORTLAND , ME 04103	37 MALILLY RD	1
171 A018001	PRICE PHYLLIS M & RICHARD E JTS	29 MALILLY RD PORTLAND, ME 04103	29 MALILLY RD	1
171 A021001	MACDONALD ROBERT WWII VET DOROTHY JTS	34 MALILLY RD PORTLAND , ME 04103	34 MALILLY RD	1
171 A022001	JACKSON VICKI L	20 MALILLY RD PORTLAND, ME 04103	20 MALILLY RD	1
171 A023001	RICHARDS WAYNE E & CONCETTA JTS	26 MALILLY RD PORTLAND, ME 04103	26 MALILLY RD	1
171 A030001	ZUB PATRICIA A	4 QUAKER LN PORTLAND , ME 04103	10 MALILLY RD	1
171 A031001	POMERLEAU RAYMOND E & RENA JTS	985 WASHINGTON AVE PORTLAND, ME 04103	981 WASHINGTON AVE	1
171 A041001	MACDONALD DARREN D	15 FELICIA LN PORTLAND , ME 04103	15 FELICIA LN	1
171 A042001	SMITH J DAVID W & JENNIFER A JTS	21 FELICIA LN PORTLAND, ME 04103	21 FELICIA LN	1
171 A043001	RODNEY ROBERT J II &	27 FELICIA LN PORTLAND, ME 04103	27 FELICIA LN	1
171 A044001	TAYLOR JENNIFER & SHAWN M	33 FELICIA LN PORTLAND, ME 04103	33 FELICIA LN	1
171 A045001	MCBRIERTY LINDA J	37 FELICIA LN PORTLAND , ME 04103	37 FELICIA LN	1
171 A046001	THUOTTE SUSAN H	43 FELICIA LN PORTLAND, ME 04103	43 FELICIA LN	1
171 A051001	TSENG RICHARD W & LI-FANG YING JTS	343 BLACKSTRAP RD FALMOUTH , ME 04105	1009 WASHINGTON AVE	2
171 A052001	EMMONS SCOTT A	28 WALKER ST SOUTH PORTLAND , ME 04106	1003 WASHINGTON AVE	2
171 B001001	JOHNS PATRICK T & HEIDI R JOHNS JTS	20 FELICIA LN PORTLAND, ME 04103	20 FELICIA LN	1
171 B002001	ST PIERRE MARC & LORI L BIRKEMOSE JTS	36 FELICIA LN PORTLAND , ME 04103	36 FELICIA LN	1
172 H007001	MURPHY JAMES R & JANE M MURPHY JTS	1 SAWYER RD WESTBROOK , ME 04092	1023 WASHINGTON AVE	1
172 H007002	MURPHY JANICE E	1023 WASHINGTON AVE # 2 PORTLAND , ME 04103	1023 WASHINGTON AVE	1
172 H007003	MURPHY JAMES R & JANE M MURPHY JTS	1 SAWYER ST WESTBROOK , ME 04092	1023 WASHINGTON AVE	1

CBL	OWNER		OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
Total Listed	84	UNITS	202		

From: Mary Kahl <mkahl@kahllaw.com>
To: Danielle West -Chuhta <DWCHUHTA@portlandmaine.gov>, Gary Wood <GARY@portlandmaine.gov>, Marge Schmuckal <MES@portlandmaine.gov>, Shukria Wiar <SHUKRIAW@portlandmaine.gov>
Date: 6/4/2009 1:40:03 PM
Subject: Re: ZBA Variances re: 978 Washingont Avenue

Danielle and Shukria -

My opinion is that the Board does not have authority to determine whether or not an ordinance is valid. Ordinances are presumed to be valid, and the Board must apply the ordinance as written. Any challenge to the validity of the ordinance, whether based on a constitutional or other argument, would have to be decided by the court.

Mary

Mary Kahl LLC
87A Ocean Street
South Portland, Maine 04106
tel. (207) 799-8008
fax (207) 767-3573
www.kahllaw.com

From: Danielle West -Chuhta <DWCHUHTA@portlandmaine.gov>
To: mkahl@kahllaw.com; Gary Wood <GARY@portlandmaine.gov>; Marge Schmuckal <MES@portlandmaine.gov>; Shukria Wiar <SHUKRIAW@portlandmaine.gov>
Sent: Thursday, June 4, 2009 11:37:19 AM
Subject: ZBA Variances re: 978 Washingont Avenue

Mary/Shukria:

Good afternoon. Given the fact that these variance requests may involve analysis of constitutional issues, I wanted to let you know that it is the City's position that the Board cannot resolve such alleged issues with an ordinance when deciding a variance application. See MMA's Board of Appeals Manual at Chapter 3, p. 15; see also *Minster v. Town of Gray*, 584 A.2d 646 (Me. 1990).

Thanks for your time,

Danielle

Danielle P. West-Chuhta
Associate Corporation Counsel
City of Portland, Maine

From: Danielle West -Chuhta
To: mkahl@kahllaw.com; Schmuckal, Marge; Wiar, Shukria; Wood, Gary
Date: 6/4/2009 12:37:19 PM
Subject: ZBA Variances re: 978 Washingont Avenue

Mary/Shukria:

Good afternoon. Given the fact that these variance requests may involve analysis of constitutional issues, I wanted to let you know that it is the City's position that the Board cannot resolve such alleged issues with an ordinance when deciding a variance application. See MMA's Board of Appeals Manual at Chapter 3, p. 15; see also *Minster v. Town of Gray*, 584 A.2d 646 (Me. 1990).

Thanks for your time,

Danielle

Danielle P. West-Chuhta
Associate Corporation Counsel
City of Portland, Maine

From: Elizabeth Begin <ewb_52@hotmail.com>
To: Marge Schmuckal <mes@portlandmaine.gov>
Date: 6/4/2009 10:26:28 AM
Subject: ZBA Comment Letter

Hi Marge, Attached is a letter of comment for the ZBA agenda item concerning the conversion of the former Portland Appliance to a place of worship. Please include it as a public comment.

I can be reached at 773-3750 if there are any questions!

Best,

Elizabeth

Windows Live™: Keep your life in sync.
http://windowslive.com/explore?ocid=TXT_TAGLM_WL_BR_life_in_synch_062009

CC: Anne Pringle <oldmayor@maine.rr.com>

THE WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

June 4, 2009

Zoning Board of Appeal
City of Portland
389 Congress Street
Portland, ME 04101

Dear Members of the Zoning Board of Appeals:

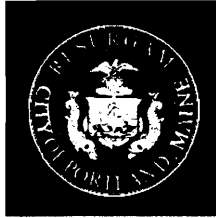
I am writing on behalf of the Western Promenade Neighborhood Association to encourage the Board to deny the request of Mr. Sadri Shir for a variance in minimum lot size and parking requirements to allow use of his property at 978 Washington Avenue as a place of worship.

While this property is not located within our neighborhood, we are concerned that allowing this variance would create a precedent that could potentially affect all residential neighborhoods in the city. For WPNA, the issue is not the type of use proposed, which is allowed as a conditional use, but rather the potential precedent of allowing conditional uses to vary so dramatically from the requirements of the underlying zoning, which requirements are reasonable and intended to protect the residential character of the City's neighborhoods.

Please reject this appeal, based on the very persuasive case made by the City's Corporation Counsel in support of the Zoning Administrator's determination.

Very truly yours,

Elizabeth W. Begin
President



Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

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

June 4, 2009

I just want to start out by saying that a Place of Worship use is allowed within the R-5 underlying zone. The use is not a point of contention in these matters. This is not about religious matters, it is about dimensional requirements and parking requirements.

As I outlined in my memo to the Board, Inspection Services received a permit application on March 3, 2009 to change the use of the property at 978 Washington Avenue from a TV repair shop on the first floor and one dwelling unit on the second floor to a place of worship/assembly use on the first floor with the one dwelling unit on the second floor to remain unchanged.

978 Washington Avenue is located within an R-5 Residential Zone. The R-5 Zone allows a place of worship with a the granting of a Conditional Use appeal before the Planning Board. Prior to the Planning Board receiving a conditional use application, Zoning performs a zoning review of the proposal. The zoning review indicated two deficiencies of the requirements: 1) The minimum lot size and 2) the minimum parking requirements.

The R-5 Zone requires a minimum lot size of one acre or 43,560 square feet of land for a place of worship. The property has only 14,400 square feet of land area, or only about 1/3 of what is required.

The parking requirements state that places of worship require 1 parking space for each 25 square feet of sanctuary area. It is now my understanding that the "rear room" shown on the floor plans is a worship area for women and children separated from the other area of worship. Using the entire first floor as a sanctuary results in a requirement of 39 required spaces along with one parking space required for the upstairs residential use, for a total of 40 required parking spaces. 20 parking spaces or only 50 percent of the required number of spaces are to be provided. The application submittals state that there is a maximum occupancy load of 45.

The prior use of the first floor was a TV repair shop with some sales of repaired TVs. The use was existing prior to the current Land Use Ordinance. It was considered to be legally nonconforming. This property was for sale for several years prior to its purchase. Our office had many inquiries concerning the property. As far as its nonconforming use, a similar use could replace it, such as service & sales of computers, or service and repair of lawn mowers. It could not be turned into a retail grocery store. It could not be turned into a restaurant.

There are other use options available to the applicant. Other uses allowed and available to the applicant in the R-5 Zone based on the current lot size would be to add one additional dwelling unit to the building. Another use allowable in the R-5 Zone based on the current lot size would be for a lodging house. Based only on current lot size, this lot may be dividable into two lots. The minimum lot size in the R-5 Zone is 6,000 square feet. There maybe other limiting factors regarding a potential lot split. I have not seen a survey with all the necessary dimensions listed.

In regards to the parking issue, the Land Use Ordinance states in 14-333 that parking shall be located on the same lot or within 300 feet of the lot. There are a few options available to the applicant, within 300 feet, or a “reasonable” distance away to supplement the deficient number of spaces. Most notable is the Chevrus parking lot for their ball fields and tennis courts “kitty-corner” across the street. There are 35 parking spaces available there. There is also a florist (a legal nonconforming use) almost directly across the street. There are less available spaces there, but some. Not too far away, but could still be considered a reasonable distance is the Grace Baptist Church on the corner of Washington and Canco Road. Perhaps a form of shuttling can be made available. The applicant has not submitted information that they have tried to search out any of these options.

The neighborhood in the vicinity of the property is mostly residential in nature. There are a couple other places of worship and some offices located at the old Rainbow Mall which is perhaps 1200 feet away. There are some small businesses going down Washington Avenue the opposite way. This is not a unique lot within the neighborhood. Again the R-5 Residential Zone allows places of worship, regardless of religion.

There are two types of Variances before the Zoning Board of Appeals. The Practical Difficulty Variance is limited to relief of **lot area**, lot coverage, frontage and setback requirements. A Practical Difficulty Variance concerning the deficient lot area is before the Board. The other type of variance is for the required number of parking spaces. It is considered to be a full Variance. The criteria that the Zoning Board review and vote on for each Variance have been handed down by the State Legislature and incorporated within the City of Portland’s Land Use Zoning Ordinance. There are different criteria for each type of Variance. Each criterion for each type of Variance must be met in full or the Variance must be denied.

Reviewing the applicant’s submittal, it is my opinion that the criteria are not being met.

Marge Schmuckal
Zoning Administrator

978 Washington Ave

Variance Appeal Application -

use parking issue.

application

- per min. parking requirements off street

→ section 14-332(k); section 14-332(a)(2)

conditions

① is not answered yes or no

② min. lot size is not issue ✓

③ ok

④ not answer the question ✓

- cover letter - 20 shown - state why 20 spaces is enough; don't need 40
- need 40 - address why thirty nine spaces is not realistic

- letter giving Richard Jordan permission to represent them

Practical Difficulty

application - conditions

#3 not answered really

#4 ~~not~~ 7 not answered

cover letter -

- same for both - not address what they are asking for.

reduction in lot size - from acre to 14,400 sf.

- letter giving Richard Jordan permission

Gayle Guertin - zoning board of appeals legal ad

From: Gayle Guertin
To: classified@pressherald.com
Date: 5/27/2009 10:32 AM
Subject: zoning board of appeals legal ad
CC: Ann Machado; Gayle Guertin; Marge Schmuckal

Good Morning Joan,

Attached is the Zoning Board of Appeals legal ad for Friday, May 29, 2009.

Thank You
Gayle Guertin @ 874-8701

CITY OF PORTLAND, MAINE
Zoning Board of Appeals

Zoning Board of Appeals Committee

DATE: 6/4/2009
TIME: 6:30:00 PM
LOCATION: 389 Congress Street

AGENDA

- 1 New Business: A. Practical Difficulty Variance Appeal: 978 Washington Avenue, Sadri Shir, owner, Tax Map 161, Block E, Lot 003, R-5 Zone: The appellant is seeking to change the use of their property from a commercial use to a place of worship. The appellant is requesting a variance in the minimum required lot size from one acre (43,560 square feet) to 14,400 square feet [section 14-120(1)(a)(5)]. Representing the appeal is Shukria Wiar.
- 1 B. Variance Appeal: 978 Washington Avenue, Sadri Shir, owner, Tax Map 161, Block E, Lot 003, R-5 Zone: The appellant is seeking a Variance Appeal under section 14-332 requesting that the off-street parking requirement be waived for the proposed change of use to a place of worship. Section 14-332 (k) requires one off-street parking space for each 25 square feet of floor area (no fixed seats) in the principal place of assemblage for worship. The place of worship has approximately 974 square feet of floor area which requires thirty-nine parking spaces. Section 14-332(a) requires one parking space for the dwelling unit on the second floor. The total number of spaces required for the two uses is forty spaces, instead of the twenty parking spaces shown. Representing the appeal is Shukria Wiar.

Gayle Guertin - Re: zoning board of appeals legal ad

From: Joan Jensen <jjensen@pressherald.com>
To: Gayle Guertin <GG@portlandmaine.gov>
Date: 5/27/2009 10:44 AM
Subject: Re: zoning board of appeals legal ad

Hi Gayle,

All set to run your ad on Friday, May 29.
The cost is \$200.38.

If you have any questions, please call or email me.

Thank you,
Joan

Joan Jensen
Portland Press Herald/Maine Sunday Telegram
P.O. Box 1460
Portland, ME 04104
Tel. (207) 791-6157
Fax (207) 791-6910
Email classified@pressherald.com

On 5/27/09 10:32 AM, "Gayle Guertin" <GG@portlandmaine.gov> wrote:

Good Morning Joan,

Attached is the Zoning Board of Appeals legal ad for Friday, May 29, 2009.

Thank You
Gayle Guertin @ 874-8701



City of Portland Zoning Board of Appeals

May 28, 2009

Sadri Shir
41 Ocean House Road
Cape Elizabeth, Maine 04107

Dear Appellant,

Your Variance Appeal has been scheduled to appear before the Zoning Board of Appeals on **Thursday, June 4, 2009 at 6:30 p.m.** on the second floor Council Chambers 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.

I have also included the bill for the legal ad and notices. The check should be written as follows:

MAKE CHECK OUT TO: City of Portland
MAILING ADDRESS: Room 315
389 Congress Street
Portland, ME 04101

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

Sincerely,

Gayle Guertin
Office Assistant

Cc: Shukria Wiar, representing appeal
File

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, June 04, 2009 at 6:30 p.m. on the second floor in the Council Chambers at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

1. New Business:

A. Practical Difficulty Variance Appeal:

978 Washington Avenue, Sadri Shir, owner, Tax Map 161, Block E, Lot 003, R-5 Zone:

The appellant is seeking to change the use of their property from a commercial use to a place of worship. The appellant is requesting a variance in the minimum required lot size from one acre (43,560 square feet) to 14,400 square feet [section 14-120(1)(a)(5)]. Representing the appeal is Shukria Wiar.

B. Variance Appeal:

978 Washington Avenue, Sadri Shir, owner, Tax Map 161, Block E, Lot 003, R-5 Zone:

The appellant is seeking a Variance Appeal under section 14-332 requesting that the off-street parking requirement be waived for the proposed change of use to a place of worship. Section 14-332 (k) requires one off-street parking space for each 25 square feet of floor area (no fixed seats) in the principal place of assemblage for worship. The place of worship has approximately 974 square feet of floor area which requires thirty-nine parking spaces. Section 14-332(a) requires one parking space for the dwelling unit on the second floor. The total number of spaces required for the two uses is forty spaces, instead of the twenty parking spaces shown. Representing the appeal is Shukria Wiar.

2. Other Business:

3. Adjournment:

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
Portland, Maine 04101

INVOICE FOR FEES

Application No: 0000-1524	Applicant: Shir Sadri	
Project Name: 978 Washington Ave	Location: 978 WASHINGTON AVE	
CBL: 161 E003001	Application Type: Variance Appeal	
Invoice Date: 05/28/2009		

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
				\$177.79		\$0.00			On Receipt

First Billing

Divison/Board: -

Previous Balance

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements	1	\$117.04
Notices	81	\$60.75
		<hr/>
		\$177.79
Total Current Fees:		<hr/>
		+
		\$177.79
Total Current Payments:		<hr/>
		-
		\$0.00
Amount Due Now:		<hr/>
		\$177.79

Detach and remit with payment

Bill to: Shir Sadri
41 Ocean House Rd
Cape Elizabeth , ME 04107

CBL 161 E003001
Application No: 0000-1524
Invoice Date: 05/28/2009
Invoice No: 34625
Total Amt Due:
Payment Amount:

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.



Zoning Board of Appeals Meeting Process

You or your representative must attend the Zoning Board meeting in order to present your case and to answer any questions the Board may have concerning your Appeal. Have a copy of your Appeal with you.

First, the Chairperson will call the meeting to order and read the Board procedures. Next, the Secretary will call the roll of Board members present. The meeting will then open to the first Appeal on the Agenda.

The first Applicant will come forward to the small front table and give a verbal summary of what it is that they are appealing to the Board. The Board will have already received your written application packet. You then may need to answer questions from the Board.

The Public will have a chance to respond when the Chair first asks the public as to who would like to respond in favor or against of the Appeal application. The Applicant will be able to respond after all the public comments.

When the Board is satisfied that they have all the information they need to make a decision, the Chairperson will close the meeting to public comment and will begin their deliberations.

The Board will make a motion (usually in the affirmative) and then further discuss the issues involved. On rare occasions the Board may open the public portion again temporarily to ask another question to the applicant. After all the deliberations, the Board will take an official vote and thus make an official decision.

The Board will then ask the next applicant to come forward. The process continues until all appeals are heard and decisions rendered.

The Chairperson will then adjourn the meeting.

A copy of the Board's decision will be mailed to you, along with a bill for abutter's notices and legal ads. We will also include a building permit application if deemed necessary.

The Building Permit Application will have to be filled out and returned to Inspection Services on the third floor of City Hall, along with the appropriate fees as indicated on the permit application, along with the specifications of that particular permit application. Please note that all those specifications are your responsibility to bring with you, not for the City to copy and add into your submissions. Any submissions that were in your Appeal packet and are necessary for the building permit, but are missing, will be copied from the Appeal packet and billed to you at \$0.50 per page.

The Building Permit Application will then be processed. It takes approximately 15 business days to approve the permit. At the time of issuance of the permit, all fees incurred during the Appeal process must be paid.

You must then call and schedule an inspection as stated in your permit application packet. If a Certificate of Occupancy is necessary, you must call and schedule with us at 874-8703. Once the Inspector is satisfied you have complied with all State and Local regulations, a Certificate of Occupancy will be issued, the fee for which is \$75.00.

From: Joan Jensen <jjensen@pressherald.com>
To: "dm@portlandmaine.gov" <dm@portlandmaine.gov>
Date: 5/28/2009 10:48:31 AM
Subject: Revised legal ad

Debbie,

The cost is \$184.07 (79 lines).
If you have any questions, please call or email me.

Thank you,
Joan

Joan Jensen
Portland Press Herald/Maine Sunday Telegram
P.O. Box 1460
Portland, ME 04104
Tel. (207) 791-6157
Fax (207) 791-6910
Email classified@pressherald.com

CONFIDENTIALITY NOTICE: The email message contained herein is intended only for the individual(s) to whom or entity to which it is addressed as shown at the beginning of the message and may contain information that is privileged, confidential, and /or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or if the employee or agent responsible for delivering the message is not an employee or agent of the intended recipient, you are hereby notified that any review, dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this message in error, please notify us immediately by return mail and permanently delete this message. Thank you for your cooperation. Information Technology Department, Portland Press Herald and Maine Sunday Telegram. Phone Number 207-791-6767.

CC: Gayle Guertin <GG@portlandmaine.gov>

184.07
50.00

134.07 ÷ 2
117.04

Applicant: Sadie Shin C-B-L: 161 E 003
Address: 978 Washington Avenue
Type of Appeal: Variance Appeal

Check list

1. Type agenda Done 5/27/09
 2. Address list of abutters to go in folder Done 5/18/09
 3. Type abutters notice Done 5/27/09
 4. Notify abutters: Done 5/27/09
 5. Letter of acknowledgment to owner, bill & procedures outline: Done 5/28/09
 6. Send agenda to the paper: Done 5/27/09
 7. Send copies of agenda to all people on labels (citizen list attached to members labels) also in-house label list Done 5/27/09
 8. Mail out packets: Done 5/29/09
 9. Send packet to Corporation Counsel Done 5/29/09
 10. Put agenda on the web site (office assistant) Done 5/27/09
- In each packet to members include the following:**

1. Agenda
2. Agenda item number on face of each appeal
3. Assessors map of each appellant
4. Abutters that are notified
5. Copy of decision form for each packet

After the meeting

1. Type decision from agenda
2. Give copy of decision to Clerk's Office including: Done 6/26/09
 - Tape
 - Handwritten decisions from Board
 - Agenda
 - Agenda with decision
3. Make 10 copies of Notice of decision 6/10/09
 - One for each packet
 - One for each applicant
 - ~~One for Joe and Aaron & Lee~~
 - ORIGINAL goes to City Clerk
4. Type cover letter of decision to applicant to include: 6/10/09
 - Letter of approval
 - Final bill
 - Copy of decision from agenda (taken from 10 copies): Done