



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

Applicant Information:

Richard A. Stewart JR
 Name

D & M Automotive, LLC
 Business Name

1217 Congress St
 Address

Portland Maine 04103

207-767-0092 767-5559
 Telephone Fax

Applicant's Right, Title or Interest in Subject Property

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

Current Zoning Designation: B-1

Existing Use of Property:

garage repair facility

Subject Property Information:

1217 Congress St
 Property Address

186 Doo1
 Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

Cathy Petroskum (Power Test Realty)
 Name

1500 Hempstead Turnpike
 Address

East Meadow, NY 11554

Telephone

Fax

Variance from Section 14 - 162

AUG 12 2009

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.

[Signature]
 Signature of Applicant

July 28, 2009
 Date

Except as specifically provided by the ordinance, a variance may be granted by the Board only 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.

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

Yes _____ (deny the appeal)

No ☒ _____

Reasons the building is a 2 bay garage, designed to repair autos, other useage would be nearly impossible

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 ☒ _____

No _____ (deny the appeal)

Reasons the property is designed to be a repair/ garage facility

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

Yes _____ (deny the appeal)

No ☒ _____

Reasons there has always in my time & memory been a garage/auto repair at this location

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 ☒ _____

Reasons applicant leased property with no prior knowledge that an auto repair shop was non-conforming owner leased property out believing useage was conforming

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

D & M AUTOMOTIVE

**1217 CONGRESS STREET
PORTLAND, ME. 04102**

Zoning Board of Appeals
City of Portland, Maine

To the Zoning Board;

Richard A. Stewart, Jr. dba: D&M Automotive, LLC is requesting a “hardship variance” for the property located at 1217 Congress St, Portland, ME.

D&M Automotive, LLC leased the property at 1217 Congress St, Portland, ME in good faith from Getty Petroleum, Inc. for a (5) five year period commencing in 2008. Getty Petroleum, Inc. leased the property at 1217 Congress St, Portland, ME in good faith, believing that an auto repair shop was allowable at that location, since it had always been a gas station/auto repair facility.

Stewart’s Getty has previously been a lessee of that property for approximately 9 years. During that time, Stewart’s Getty performed full service auto repair at the location, 1217 Congress St, Portland, ME. As long as I, Richard Stewart, can remember there has been a gas station and/or auto repair facility at the location of 1217 Congress St, Portland, ME.

D&M Automotive, LLC has a (5) five year lease at the location, and is obligated to Getty Petroleum for monthly fees for that lease. Granting a “hardship variance” would be the only way that D&M Automotive could fulfill their obligation under the lease to pay monthly rental as agreed upon in the lease. The business is open during daytime hours only. We occasionally work on weekends, but that also is only during daytime hours. The impact of D&M Automotive on the surrounding community is minimal, and certainly having the facility open, kept in good repair and offering a needed service to the community seems to be much more beneficial than having a vacant, run-down building. The building was designed and built to be an auto repair facility and is fully equipped to provide that service.

We respectfully request that the Zoning Board grant us a “hardship variance” for an auto repair shop at 1217 Congress St, Portland, ME.

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number	1 of 1
Parcel ID	186 D001001
Location	1217 CONGRESS ST
Land Use	RETAIL & PERSONAL SERVICE
Owner Address	POWER TEST REALTY 1500 HEMPSTEAD TURNPIKE EAST MEADOW NY 11554
Book/Page	6969/247
Legal	186-D-1 CONGRESS ST 1213-1221 BOLTON ST 1-7 12218 SF

Current Assessed Valuation

Land	Building	Total
\$263,800	\$110,700	\$374,500

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1964	1	1288	1
Total Acres	Total Buildings Sq. Ft.	Structure Type	Building Name	
0.28	1288	SERVICE STATION	GETTY OIL	

Exterior/Interior Information

Section	Levels	Size	Use
1	01/01	1288	

Height	Walls	Heating	A/C
14	BRK/CONC BLK	HOT AIR	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE

Building Other Features

Line	Structure Type	Identical Units
1	CANOPY - ONLY	1
1	OVERHEAD DOOR - WD/MT	1

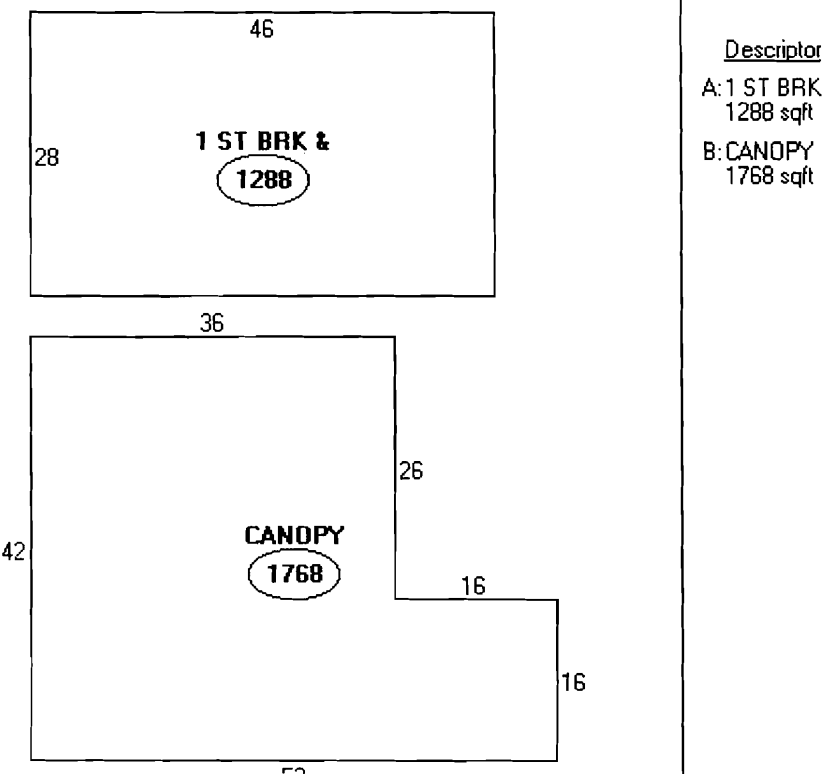
Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1970	ASPHALT PARKING	8000	1
1972	LIGHT - MERCURY VAPOR, POLE		2



Parcel ID	Name and Mailing Address	Property Location	Land Use
186 D001001 CARD 1	POWER TEST REALTY 1500 HEMPSTEAD TURNPIKE EAST MEADOW NY 11554	1217 CONGRESS ST	RETAIL & PERSONAL SERVICE

[New Search!](#)



LOCAL BUSINESS FORM
APPLICATION FOR PERMITClass of Building or Type of Structure Second ClassPortland, Maine, Aug. 21, 1956

617-111

OCT 10 1956

To the INSPECTOR OF BUILDINGS, PORTLAND, MAINE

The undersigned hereby applies for a permit to erect ~~the following building structure~~ in accordance with the Laws of the State of Maine, the Building Code and Zoning Ordinance of the City of Portland, plans and specifications, if any, submitted herewith and the following specifications:

Location 1217-1221 Congress St. (1213-1221) Within Fire Limits? no Dist. No. _____
Owner's name and address Elizabeth F. McDonough, 1217 Congress St. Telephone _____
Prospective buyer _____
~~Owner's name and address~~ Tidewater Associated Oil Co., 27 Main St., So. Port Telephone _____
Contractor's name and address Not yet - Sagley & Mace, Inc. Telephone _____
Architect G. Dextor St. Specifications Adapted Plans yes No. of sheets 14
Proposed use of building service station Mass No. families _____
Last use _____ No. families _____
Material _____ No. stories _____ Heat _____ Style of roof _____ Roofing _____
Other buildings on same lot _____
Estimated cost \$ 17,500. Fee \$ 18.00

General Description of New Work

To construct 1-story masonry service station 45½' x 27' 4" as per plans.

Permit Issued with Letter

Portland conditionally 9/14/56

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor. **PERMIT TO BE ISSUED TO** ~~Prospective buyer~~

Details of New Work

Is any plumbing involved in this work? _____ Is any electrical work involved in this work? _____
Is connection to be made to public sewer? _____ If not, what is proposed for sewage? _____
Has septic tank notice been sent? _____ Form notice sent? yes
Height average grade to top of plate _____ Height average grade to highest point of roof _____
Size, front _____ depth _____ No. stories _____ solid or filled land? _____ earth or rock? _____
Material of foundation _____ Thickness, top _____ bottom _____ cellar _____
Material of underpinning _____ Height _____ Thickness _____
Kind of roof _____ Rise per foot _____ Roof covering _____
No. of chimneys _____ Material of chimneys _____ of lining _____ Kind of heat _____ fuel _____
Framing lumber—Kind _____ Dressed or full size? _____
Corner posts _____ Sills _____ Girt or ledger board? _____ Size _____
Girders _____ Size _____ Columns under girders _____ Size _____ Max. on centers _____
Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.
Joists and rafters: 1st floor _____, 2nd _____, 3rd _____, roof _____
On centers: 1st floor _____, 2nd _____, 3rd _____, roof _____
Maximum span: 1st floor _____, 2nd _____, 3rd _____, roof _____
If one story building with masonry walls, thickness of walls? _____ height? _____

If a Garage

No. cars now accommodated on same lot _____ to be accommodated _____ number commercial cars to be accommodated _____
Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? _____

Miscellaneous

City of Portland, Maine
Board of Appeals
—ZONING—

Sustained
9/14/56
56/87

August 24, 1956, 19

To the Board of Appeals:

Your appellant, Elizabeth F. McDonough, who is the owner of property at 1117-1121 Congress Street, respectfully petitions the Board of Appeals of the City of Portland to permit an exception to the regulations of the Zoning Ordinance relating to this property, as provided by Section 18, Paragraph E of said Zoning Ordinance.

Building permits and certificate of occupancy intended to authorize construction of a one story masonry wall motor vehicle service station building (called Service Garage) about 24' by 40', for installation of tanks, pumps, piping and other appurtenances for the proposed service station, and for use of building and equipment and the openland for filling station and service station purposes, are not issuable under the Zoning Ordinance because such a use of land and buildings on the 100 foot depth of the lot measured from Congress St. is not allowable, according to Section 6A of the Ordinance, applying in the Local Business Zone where that part of the lot is located, unless first authorized by the Board of Appeals after the usual appeal procedure, and such uses are not permitted on that part of the lot further to the rear, according to Section 9A of the Ordinance, applying to the Residence B Zone where that part of the lot is located. This permit is being applied for by Tidewater Oil Company.

The facts and conditions which make this exception legally permissible are as follows:

An exception is necessary in this case to grant reasonable use of property where necessary to avoid confiscation and can be granted without substantially departing from the intent and purpose of the Zoning Ordinance.

Elizabeth F. McDonough
Appellant

After public hearing held on the 14th day of September, 1956,

the Board of Appeals finds that an exception is necessary in this case to grant reasonable use of property where necessary to avoid confiscation and can be granted without substantially departing from the intent and purpose of the Zoning Ordinance, provided that only such portion of these premises as is contained within the Local Business Zone extending 100 feet back from Congress Street shall be used or occupied for filling station purposes.

It is, therefore, determined that exception to the Zoning Ordinance may be permitted in this specific case, provided that only such portion of these premises as is contained within the Local Business Zone extending 100 feet back from Congress Street shall be used or occupied for filling station purposes.

Ben B. Wilson
John C. Lake
Ruth P. Welch
St. Vincent
William F. O'Brien
BOARD OF APPEALS

(COPY)



CITY OF PORTLAND, MAINE
Department of Building Inspection

Certificate of Occupancy

LOCATION 1213-1221 Congress St.

Issued to **Widewater Oil Co.**

Date of Issue **May 9, 1957**

This is to certify that the building, premises, or part thereof, at the above location, built—altered—changed as to use under Building Permit No. **56/1734**, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

APPROVED OCCUPANCY

Entire

Service Station

Limiting Conditions:

Use of premises limited to 100 feet depth from Congress St., as granted by by Board of Appeals 9/14/56

This certificate supersedes certificate issued

Approved:

(Date)

Nelson F. Cartwright
Inspector

[Signature]
Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.

Acct. #28032

LEASE AGREEMENT

LEASE AGREEMENT ("Agreement") made as of 4-8-08 between GETTY PETROLEUM MARKETING INC., a Maryland corporation having its principal office at 1500 Hempstead Turnpike, East Meadow, New York 11554 ("Lessor"), and Richard Allen Stewart, Jr., with his principal business residence at 81 Elderberry Dr., South Portland, ME 04106 ("Lessee").

1. Lessor hereby demises and lets to Lessee and Lessee hereby hires and leases from Lessor the premises ("Premises") located at 1217 Congress St., Portland, ME 04102, pursuant to the terms, conditions and limitations set forth herein.
2. The term of this Agreement shall be for a period of three (3) years from the date hereof contingent upon the fulfillment of the following in the sole discretion of Lessor: (i) Lessee giving the Lessor the certificates of insurance set out in Paragraph 7, (ii) making of the security deposit payment by the Lessee as set out in Paragraph 4 below, (iii) Lessee's credit approval by Lessor in Lessor's sole discretion, (iv) removal or abandonment in Lessor's discretion of USTs in accordance with Paragraph 10(b), and (iv) undertaking of other acts by Lessor pursuant to Paragraph 10(b) below ("Commencement Date"), and terminating on February 28, 2011 unless further extended prior thereto as may be agreed in writing by the parties ("Term").
3. (a) Lessee shall pay the following rent for said Premises:
 For the period of _____ to April 30, 2008 - \$0.00 per month
 For the period of May 1, 2008 to February 28, 2011 - \$1,500.00 per month
4. On or prior to the Commencement Date Lessee shall make a security deposit of \$4,500.00 as security for the performance by Lessee of the provisions of this Agreement. In the event of Lessee's default or failure to comply fully with the provisions of this Agreement Lessor may use, apply or retain the whole or any part of the security deposit to the extent required for the payment of any obligation of Lessee. In the event that Lessee fully complies with the terms and conditions of this Agreement, the security deposit less any deductions shall be returned to Lessee after the end of the Term and after delivery of possession of the Premises in accordance with Paragraph 16(a) below is given to Lessor. Lessor shall pay to Lessee interest on that amount of the security deposit returned to Lessee if required by law and then at a rate as so required.
5. a) Lessee shall pay monthly, as additional rent, all increases in taxes over the sum of \$684.64 per month which shall be imposed or assessed upon the land, building and other improvements constituting the Station. Payment of the foregoing shall be made at the same time and in the same manner as rent is paid pursuant to paragraph 4 of this lease. Lessee shall pay all personal property taxes and business use taxes related to the Station and the equipment located thereon.
 (b) Lessee shall pay directly to the appropriate authority all utilities including without limitation, all sewer charges (other than assessments), electricity and telephone.

INITIALS:

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LESSOR

LESSEE

(c) The Lessor shall not be liable to Lessee or any other person or persons, firms, associations, corporations or entities for any failure of the water supply, electricity, gas or any other service in and about the Premises nor for injury or damages to persons or property caused by any such failure or caused by the elements or by any other person in and about the Premises, or which might result from leakage or flow of any system, gas, electricity, water, rain, ice or snow from any part of the Premises or portion thereof or from the streets adjacent thereto, nor shall Lessor be liable for any latent defects in or on the Premises, buildings and appurtenances thereto, including without limitation the sidewalks adjacent to the Premises.

(d) Lessor shall be liable for any charges under Paragraphs 5(a), 5(b) and 5(c) accrued prior to the Commencement Date.

6. (a) Lessor shall have no liability or responsibility for any contamination whatsoever caused by Lessee, its agents, representatives, employees, successors or assigns or any party whatsoever if at any time during the Term any spill, release or discharge of any hazardous or toxic substance or other contamination occurs. Lessee shall notify Lessor in writing of each such event, and Lessee shall assume responsibility for all costs, fines, payments and expenses associated with such contamination and any additional expenses which Lessor may incur as a result of such contamination. For the avoidance of doubt, in respect of Lessee, Lessor is responsible for any environmental contamination existing before the Commencement Date.

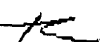
(b) Notwithstanding Paragraph 6(a) above, if contamination due to a spill, release or discharge occurs Lessee shall pay for all such costs, fines, payments and expenses or for the costs, fines, payments and expenses to comply with applicable legal requirements including, without limitation any directive or order of any government agency. In the event Lessee shall fail, refuse or neglect to remediate the contamination in order to comply timely with all legal requirements, Lessor may remediate the contamination at Lessee's sole cost and expense. Irrespective of whether Lessor or Lessee undertakes any remediation, Lessee covenants and agrees to reimburse and promptly pay to Lessor all costs associated with any discharge, release, or other contamination and remediation together with interest thereon at the lesser of eighteen percent (18%) per annum or the maximum rate permitted by law. If Lessee fails to reimburse Lessor within thirty (30) days of demand therefor, such unpaid amount with interest as accrued above shall become additional rent due hereunder.

(c) Lessor shall defend, indemnify and hold harmless Lessee from any action, claim, notice, penalty, damages, costs, fines, fees, payments or expenses whatsoever related to any discharge, release or for any form of contamination occurring before the Commencement Date

(d) Lessee shall defend, indemnify and hold harmless Lessor, its parent and subsidiary companies and affiliates, and each of their respective directors, shareholders, officers, employees, agents and representatives, from any action, claim, notice, penalty, damages, costs, fines, fees, payments or expenses whatsoever related to any discharge, release or for any form of contamination occurring on or after the Commencement Date. The foregoing indemnification obligations of Lessee shall survive in perpetuity any expiration or termination of this Agreement.

INITIALS:

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LESSOR LESSEE 

(e) Lessor hereby reserves for itself an easement and right of way on the Premises to allow Lessor and its contractors to undertake any required environmental clean-up, remediation or testing of any kind whatsoever in respect of any environmental violation or discharge or other occurrence of hazardous substances which arose prior to the Commencement Date ("Environmental Work"). Lessor shall attempt to undertake the Environmental Work in such a manner as to minimize disruption to Lessee's business on the Premises, however Lessee hereby acknowledges that such Environmental Work may negatively impact such business and hereby irrevocably consents to the same.

(f) This indemnification provision shall survive in perpetuity any expiration or termination of this Agreement.

7. (a) Lessee shall pay the premiums for and deliver to Lessor the following policies of insurance valid continuously for the Term, with reputable and economically sound insurance carriers authorized to do business in the State of Maine, which shall name Lessor, its designees, and the owners of the property as additional insureds as follows:

(i) Property insurance policy insuring the building and all improvements now or hereafter erected on the Premises against loss or damage by fire or casualty (with all risk coverage including vandalism and malicious mischief) for the full replacement value thereof (but in no event less than One Hundred Twenty Five Thousand (\$125,000.00) Dollars), policies of which shall provide that loss, if any, shall be adjusted with and payable to Lessor, or at Lessor's request, to Lessor and/or any mortgagee, as their respective interests may appear; and

(ii) General accident, public liability policy in a combined single limit of Two Million Dollars (\$2,000,000.00) for bodily injury and property (without care, custody and control exclusion) damage liability covering the Premises and the sidewalks adjacent thereto. The policies should be written as an "occurrence" type of policy; and

(iii) Rental value insurance (with extended coverage) in a sum equal to the rent reserved herein and the amount of real estate taxes which Lessee is obligated to pay as provided in this Agreement.

(b) Lessee shall obtain a worker's compensation insurance policy at required statutory limits.

(c) Lessee shall provide Lessor with certificates of insurance as a condition precedent to the start of the Commencement Date. Such certificates shall name Getty Petroleum Marketing Inc., Getty Properties Corp., Getty Realty Corp., Power Test Realty Company Limited Partnership and any owner or lessee of the Premises and each of their respective parent and subsidiary companies and affiliates ("Additional Indemnities") as additional insureds and/or loss payees and shall contain the following endorsement "Cancellation: In the event of policy cancellation or material change, the Certificate Holder will be notified in writing at the address indicated, of such cancellation or material change, such cancellation or change to be effective not less than sixty (60) days after notice of such cancellation or change."

INITIALS:

LESSOR


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LESSEE

8. (a) Subject to such uses being lawful, Lessee shall use and occupy the Premises for automotive repair by Lessee in its normal course of business. Lessee must obtain, at its own expense, all government licenses or permits required for the lawful conduct of Lessee's business on the Premises and Lessee will, at all times, comply with the terms of such licenses or permits. Lessee shall keep all such licenses and permits in full force and effect for the use of the Premises permitted under this Agreement. Lessee shall not sell or distribute petroleum product and lubricating oils.
- (b) Lessee shall be allowed to use the Premises for any other lawful use only after prior written approval from Lessor which approval shall not be unreasonably withheld. Lessee acknowledges and agrees that Lessor will have the right to condition its approval of any other uses not stated in Paragraph 8(a) above upon amendment of this Agreement with additional terms and conditions.
9. Lessee shall not permit or keep any dogs or other dangerous animals at the Premises and Lessee shall be solely liable and responsible and indemnify Lessor and Additional Indemnitees for any such dogs and animals which may be at the Premises from time to time hereunder.
10. (a) Lessee, at its expense, shall maintain and make all repairs necessary to keep the building and entire Premises in good and safe operating condition, without any abatement of rent for the interruption caused thereby. Lessee shall promptly make all such repairs including without limitation replacements which repairs including without limitation replacements shall be in quality and class equal to or better than the work or installations existing at the time that the damage or injury occurred.
- (b) Prior to the Commencement Date Lessor shall remove or abandon in its sole discretion all underground storage tanks and related piping ("UST's") in accordance with all applicable laws and regulations, and remove all above ground petroleum marketing equipment except the canopy and the pole signs, all plastic fascias and identifying letters, and all debris from the exterior of the building on the Premises.
- (c) Lessee shall keep adjacent sidewalks, curbs and driveways in good and safe condition and free from snow, ice and obstructions; keep the yard area free of trash, junk and debris; and replace damaged glass. Lessee shall be responsible for snow removal and trash removal at the Premises. Lessee shall commit no act of waste to the Premises or improvements.
11. (a) Lessor shall not be required to render any services to Lessee or to make any repairs or replacements to the Premises except those specifically described in this Agreement.
- (b) Lessor, for itself and its agents, reserves the right to enter the Premises for the purposes of examining and inspecting said Premises and any property of Lessor thereon and to make any necessary repairs thereto which are required pursuant to Paragraph 10 above and Lessee has failed to undertake upon reasonable notice to Lessee and during regular business hours unless otherwise agreed to by Lessee or unless in the event of an emergency in which event no notice is necessary. Lessor shall not be liable in any manner to Lessee by reason of such entry or the performance of repair work on the Premises and the obligations of Lessee hereunder shall not be thereby affected. Lessor shall charge the cost of repair to Lessee whether as additional rent due with Lessee's next monthly installment of fixed rent or otherwise. In addition, Lessee's failure to pay such charges may in the discretion of Lessor be treated as a failure to pay rent when due and subject to the same remedies.

INITIALS:

LESSOR



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LESSEE



12. The Lessee agrees to permit the Lessor or the Lessor's agents to show the Premises to persons wishing to hire or purchase the same; and the Lessee further agrees that on and after the sixth month preceding the expiration of the Term hereby granted, the Lessor or their agents shall have the right to place notices on the front of said Premises, or any part thereof, offering the Premises "To Let" or "For Sale", and the Lessee hereby agrees to permit the same to remain thereon without hindrance or molestation.
13. This Agreement is subject and subordinate to that certain Amended and Restated Master Lease Agreement dated as of November 2, 2000 between Lessor and Getty Properties Corp. ("Master Lease") in respect to the Premises and all mortgages or other security instruments which may now or hereafter affect this Agreement or the Premises, and to all renewals, modifications, consolidations, replacements, extensions, substitutions or assignments thereof. This Paragraph shall be self-operative and no further instrument of subordination shall be required in order to effect same, however, in confirmation of such subordination, Lessee shall execute promptly any certificate that Lessor may request. In the event that the Master Lease terminates for any reason under the Master Lease, this Agreement shall terminate with immediate effect and Lessor shall have no obligation or liability to Lessee hereunder.
14. Lessee shall comply promptly with all present and future laws, codes and ordinances and other notices, requirements, orders, regulations and recommendations (whatever the nature thereof) of all governmental authorities and recommendations of the board of fire underwriters or any insurance organizations, associations or companies in the respect to the Premises, and Lessee will not knowingly do or commit, or suffer to be done or committed anywhere in the Premises, any act or thing contrary to any of the laws, ordinances, notices, requirements, orders, regulations and recommendations referred to herein.

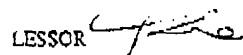
Lessee shall place no signs on the Premises, which do not relate to Lessee's business without first obtaining Lessor's prior written consent. All signs shall be in compliance with all applicable laws. Lessee shall pay the charges, if any, for all sign permits.

16. (a) Lessee shall quit and surrender peaceably and quietly, to Lessor, its agent or attorney, possession of the Premises at the expiration or other termination of this Agreement, vacant (free of all occupants), broom clean and in good condition, except for ordinary wear and tear. Lessee's failure to so vacate shall subject Lessee to liability and Lessee agrees to pay Lessor's damages, costs and counsel fees resulting therefrom. If upon termination of this Agreement or abandonment of the Premises by Lessee, Lessee abandons or leaves any personal property or equipment at the Premises, such equipment or property shall be conclusively deemed abandoned and Lessor shall have the right, without notice to Lessee, to store or otherwise dispose of the property or equipment at Lessee's sole cost, expense and risk, without being liable in any respect to Lessee. Lessee agrees that any such disposition by Lessor shall be conclusively deemed to be commercially reasonable.

(b) If Lessee holds over or remains in possession of the Premises after the expiration of the Term, or after any prior termination thereof, without any written agreement being made or entered into between Lessor and Lessee, such holding over or continued possession shall be deemed to be a tenancy from month to month at a monthly rent equal to two (2) times the previous month's rent, and otherwise upon the terms and conditions of this Agreement, and such tenancy shall be terminable at the end of any month by either party upon written notice delivered to the other party at least thirty (30) day's prior to the end of such month.

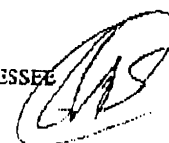
INITIALS:

LESSOR



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LESSEE



17. Lessee shall not do any act, or make any contract, which may create or be a foundation for any lien (including mechanics' or materialman's liens) or other encumbrance upon any interest of Lessor in the Premises. If any such lien be filed, Lessee, within fifteen (15) days or as soon as reasonably possible after notice of filing shall cause any such lien or encumbrance to be discharged of record.
18. (a) Lessor, at its expense and without any abatement or rent for the interruption caused thereby, shall make structural repairs deemed necessary by it to keep the building in good operating condition, provided that repairs are due to ordinary wear and tear or damage by the elements.

(b) Lessee shall make no additions, changes, alterations or improvements to the Premises without first submitting detailed plans and specifications and obtaining Lessor's prior written consent. Any alterations or additions to any buildings or permanent improvements authorized by Lessor shall be made in a good, workmanlike manner, in compliance with all applicable laws, rules and regulations and at Lessor's option shall upon installation become the property of Lessor and Lessee shall have no right or interest therein except to continue to use same during the remainder of the Term. At the request of Lessor, Lessee shall forthwith at its own cost and expense remove all alterations, improvements, and additions not acceptable to or desired by Lessor (which shall not include any alterations, improvements and additions approved by Lessor in writing) from the Premises, and Lessee shall repair all damage caused by such installation and removal. Any costs incurred by Lessor in removing or disposing of any alterations, improvements and additions or repairing any related damage shall be charged to Lessee and may be treated by Lessor as additional rent hereunder or otherwise.
19. Each of Lessor and Lessee agree that each of the provisions of this Agreement is a material and substantial condition of the agreement between the parties hereto relating to the lease of the Premises and that non-compliance with any such provision shall be deemed to be a default hereunder. Lessor may terminate this Agreement upon ten (10) days' written notice of default hereunder or violation of applicable law from Lessor, and in any manner resume possession of the Premises.
20. In the event of any default by Lessee, re-entry by Lessor, expiration or termination of this Agreement or dispossession by summary proceeding or otherwise, Lessee shall be responsible for the following:
 - a) Rent up to the time of such re-entry, dispossession or expiration of the Term;
 - b) Rent for the balance of the full Term, all of which shall be accelerated and due and payable as of the date of default, re-entry by Lessor, termination of this Agreement or entry of a judgment of possession, whichever date first occurs;
 - c) The payment of all sums incurred by Lessor in putting the Premises in good order or preparing the same for re-rental, including brokerage and advertising fees;
 - d) Reasonable attorney's fees and expenses resulting from Lessor enforcing any of the remedies described above, or in the enforcement of this Agreement or in defending any claim brought against Lessor by Lessee against which Lessor successfully defends; and
 - e) Compensation for any damages caused by Lessee to the Premises.

INITIALS:

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LESSOR



LESSEE



In addition, Lessor shall have such other remedies as are then available to it by law. Lessor is under no obligation to mitigate damages.

No right or remedy granted or reserved unto Lessor hereunder shall be deemed to be exclusive of any other or additional right or remedy available to Lessor at law or in equity or under statute.

21. (a) Lessee shall not pledge, mortgage or otherwise encumber or take any other action to impinge Lessor's rights (or the value thereof) to the Premises, the equipment listed on Schedule B or any other real or personal property on the Premises belonging to Lessor.

 (b) Lessee shall not assign, sublet or otherwise transfer the Premises or any part thereof, without first obtaining Lessor's written consent which consent Lessor may, in its sole discretion, withhold. In the event of any such assignment, subletting, or other transfer, by new lease or otherwise, Lessee shall continue to remain jointly and severally liable with its transferee to Lessor for the performance of all of Lessee's obligations for the remainder of the Term.
22. (a) Lessee shall nominate a duly licensed and qualified contractor for any construction or repair work involving the Premises. Lessee shall assume all liability and shall indemnify and hold harmless Lessor and Additional Indemnitees for any contamination, claims, suits, damages, fines, expenses or any other payments whatsoever related to any construction or repair work at or in connection with the Premises. Lessee shall require certificates of insurance from such contractors or for any repair services, which certificates shall name Lessor and Additional Indemnitees as additional insureds to the satisfaction of Lessor.

 (b) This indemnification provision shall survive in perpetuity any expiration or termination of this Agreement.
23. The parties hereto waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other (except for personal injury or property damage) on any matters whatsoever arising out of or in any way connected with this Agreement, the relationship of Lessor and Lessee, Lessee's use of or occupancy of the Premises, or any other statutory remedy. In the event Lessor commences any dispossession proceeding for possession of the Premises, Lessee will not interpose any counterclaim of any nature or description in such proceeding.
24. Lessor shall not in any event whatsoever be liable for any injury or damages to any person happening on or about the Premises, or for any injury or damage to the Premises, or to any property of Lessee or to any property of any other person, firm, association, or corporation on or about the Premises, unless the direct result of Lessor's gross negligence. Lessee shall defend, indemnify and hold harmless Lessor and the Additional Indemnitees from and against any and all losses, claims, demands, suits, actions, judgments, fines, costs, expenses or payments, environmental or otherwise, for, or in connection with this Agreement, any accident, injury or damage whatsoever caused to any person or property arising, directly or indirectly, out of the business conducted at the Premises or by virtue of Lessee's use and occupancy of the Premises or on any of the sidewalks adjoining the same, or arising, directly or indirectly, from any violation of any law, agency ruling or regulation, or from any act or omission of Lessee or any subtenant and their respective licensees, servants, agents, customers, employees or contractors, and from and against all costs, expenses and liabilities incurred whether or not in connection with any such claim or proceeding brought in connection therewith. Lessee's obligations under this Paragraph shall survive in perpetuity any expiration or termination of this Agreement.

INITIALS:

7

LESSOR

LESSEE

25. For the avoidance of doubt, any indemnification obligations of Lessee to Lessor under this Agreement shall be deemed to run in favor of the Additional Indemnities at the sole option of Lessor.
26. Lessee agrees that the liability of the Lessor under this Agreement and all matters pertaining to or arising out of the tenancy and the use and occupancy of the Premises, shall be limited to Lessor's interest in the Premises, and in no event shall Lessee make any claim against or seek to impose any personal liability upon any individual, general or limited partner of any partnership, or principal of any firm or corporation that may now or hereafter become the Lessor.
27. If the whole or any substantial part of the Premises shall be acquired or condemned by eminent domain or for any public or quasi-public use or purpose, then, and in that event, the Term shall cease and terminate from the date of title vesting and Lessee shall have no claim against Lessor for the value of any unexpired Term of this Agreement. Any award will be for the benefit of Lessor and no part of any award shall belong to Lessee, provided however Lessee shall have to assert its full legal rights to share in such award so long as such assertion is coordinated with Lessor and in accordance with the Master Lease.
28. Should any of Lessee's checks, electronic wire transfers or electronic funds transfers be dishonored, stopped or returned for any reason after delivery or transfer to Lessor, Lessee agrees to pay to Lessor an administrative service charge equal to the greater of Fifty Dollars (\$50.00) or three percent (3%) of the amount of any such check or attempted transfer, to cover Lessor's costs and expenses. Any money owed by Lessee to Lessor after the due date shall bear interest at the rate of the lesser of one and a half percent (1 1/2%) per month (eighteen percent (18%) annual percentage rate), or the maximum interest rate permitted by law. Lessor reserves the right, at any time upon sixty (60) days' prior notice to Lessee, to increase the foregoing administrative service charge and/or the interest rate on money owned after the due date. Lessee understands and agrees that more than three (3) instances of dishonoring of checks and/or electronic wire transfers or Electronic Funds Transfers during any twelve (12) month period shall be an additional ground of default under this Agreement.
29. (a) Lessor does not, in any way, represent or warrant the fitness of the Premises for the use contemplated by Lessee, and it shall be Lessee's obligation to make same fit at its sole cost and expense. Lessee acknowledges that it has inspected the Premises including the equipment as set out in Schedule B and accepts the same in its present condition "AS IS".
- (b) Lessee acknowledges that it will be operating a place of public accommodation and covenants and agrees that it will make any improvements, alterations or modifications to the leased Premises as may be required by the Americans With Disabilities Act of 1990, as amended, and the regulations issued pursuant thereto and any similar applicable law, rule, regulation or act now existing or hereafter enacted (collectively the "Disabilities Act"). Furthermore, Lessee agrees that it will defend, indemnify and hold harmless Lessor for any costs, damages, penalties or fines Lessor may incur by reason of Lessor's and/or Lessee's failure to comply with the Disabilities Act at the Premises during the Term. The provisions hereof shall survive in perpetuity any expiration or termination of this Agreement.
30. Lessee warrants and represents to Lessor: (i) that this Agreement has been duly authorized by all necessary action on the part of Lessee, has been duly executed by Lessee and represents the valid and binding obligations of Lessee enforceable in accordance with its terms; and (ii) that it has dealt with no broker, real estate salesman, or person acting as broker or finder, in connection with this Agreement. Lessee shall defend, indemnify and hold harmless Lessor and Additional Indemnities of and from any and all claims, liabilities and/or damages which are based upon a claim by any broker, person, firm, or corporation for brokerage commission and/or other compensation by reason of having dealt with Lessee. The provisions of this Paragraph shall: (A) survive in perpetuity any expiration or termination of this Agreement, and (B) be deemed to be continually repeated during the Term.

INITIALS:

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LESSOR




LESSEE



31. All notices and other communications which are required shall be given by Certified Mail, Return Receipt Requested, to the parties at their respective addresses first written above, or to the Lessee at the Premises or to such other address as either party may designate by like Certified Mail. Any such notice shall take effect at the time of the mailing thereof.
32. (a) Lessor's right to require strict performance shall not be affected by any previous waiver or course of dealings.
 (b) The receipt and acceptance of rent by Lessor with knowledge of a default by Lessee under this Agreement shall not be deemed a waiver of such default and Lessor retains all of its rights under this Agreement related to such default.
 (c) No payment by Lessee or receipt by Lessor of a lesser amount than the monthly rent stipulated herein shall be deemed to be other than on account of the earliest stipulated rent or item of additional rent outstanding, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent or additional rent be deemed an accord and satisfaction and Lessor may accept any such check or payment without prejudice to Lessor's rights to recover the balance due or to pursue any other remedy.
 (d) Lessor may set off any amounts owned to Lessor hereunder against any monies owed by Lessor to Lessee hereunder or under any other agreements in force between Lessor and Lessee or Lessor.
33. Lessor shall not be liable for failure to give possession of the Premises upon the Commencement Date by reason of the fact that the Premises are not ready for occupancy or because a prior Lessee or any other person is wrongfully holding over or is in wrongful possession, or for any other reason. The rent shall not commence until possession is given or is available, but the Term herein shall not be extended.
34. At any time and from time to time, within twenty (20) days after request by Lessor, by written instrument, Lessee shall certify to Lessor, any mortgagee, assignee of a mortgagee, any purchaser, or any other person specified by Lessor, to the effect that: (a) Lessee is in possession of the Premises; (b) this Agreement is unmodified and in full force and effect (or if there has been modification, that the same is in full force and effect as modified and setting forth such modification); (c) whether or not there are then existing set-off or defenses against the enforcement of any duty or obligation of Lessee (and if so, specifying the same); and (d) the dates, if any, to which any rent or other charges have been paid in advance.
35. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, heirs, successors and assigns.
36. No waiver, modification or amendment of the provisions of this Agreement, or any of the rights or remedies of either of the parties hereto shall be valid, unless such waiver, modification or amendment is in writing, and signed by the party against whom enforcement is sought.
37. This Agreement shall be construed in accordance with the laws of the State where the Premises is located without regard to principles of conflict of laws.
38. In the event any provision of this Agreement is declared illegal, invalid, or unenforceable or contrary to law, it shall not affect any other part.
39. The parties hereto have set forth in this Agreement their entire understanding, there is no other agreement or understanding between the parties, except as expressly set forth herein.

INITIALS:

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LESSOR LESSOR 

40. This Agreement is the product of negotiations between the parties, both sides being represented (or having an opportunity to be represented) by counsel. The mere fact that one party or the other drafted, typed, printed or produced the written form hereof shall not be construed to prejudice such party nor to raise any presumption in law or equity against the drafting party by reason of possible ambiguity.
41. Lessee has fully read this Agreement before signing same and is in full agreement with its terms. The person signing this Agreement on behalf of Lessee certifies that he/she is authorized by Lessee to execute this Agreement on behalf of Lessee and to bind Lessee to its terms.
42. Lessee shall not record this Agreement or any notice or memorandum thereof.

By: [Signature]
 Name: Richard Allen Stewart, Jr.
 Title: Lessee/General Manager

Lessee's Social Security Number or Federal Tax ID
 Number: 007-56-4332

GETTY PETROLEUM MARKETING INC.

By: _____
 Name: Edward J. Janoski
 Title: Regional Manager, Lessor

STATE OF Maine)
) ss:
 COUNTY OF Cumberland

On this 10th day of April, 2008, before me personally came Richard Allen Stewart, Jr. to me known, who executed the foregoing instrument and signed their name thereto in my presence.

[Signature]
 Notary Public
 ANNE MARIE MCCOUBREY
 Notary Public, Maine
 My Commission Expires September 23, 2010
2010

STATE OF _____)
) ss:
 COUNTY OF _____

On this _____ day of _____, 2008, before me personally came Edward J. Janoski, to me known, who being by me duly sworn, did depose and say that he is the Regional Manager of GETTY PETROLEUM MARKETING INC., the corporation described in and which executed the above instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

 Notary Public

INITIALS

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LESSOR

LESSEE

SCHEDULE A

ALL THAT CERTAIN

INITIALS:

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LESSOR

LESSEE

Attachment B

Account No.:

Getty Petroleum Marketing Inc. ("Company") has waived obligations of RICHARD
Allen Stewart Jr. ("Lessee") to provide evidence of Workers Compensation
coverage in as much as Lessee is the Sole Proprietor and has no employees including family
members. In the event that Lessee shall be required to immediately provide evidence of
Workers' Compensation
Coverage to the company.

RICHARD Allen Stewart Jr.
Name (Print)

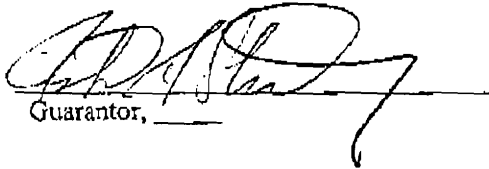
Lessee Signature(s)

TSM Signature

Notary:

GUARANTY

In consideration of Company's agreement to enter into the above Agreement with Lessee and for other good and valuable consideration, the undersigned does hereby promise and guaranty to Company full performance by Contractor of all terms and conditions of this Agreement and any riders, modifications or amendments thereto and to any and all agreements now or hereafter made relating to the Station or the equipment thereon, and the undersigned guarantees payment to Company of all sums due to Company by reason of the aforesaid agreements. If any sums of money are not paid to Company when due, or if any other default exists, the undersigned shall immediately pay said sums to Company on demand or cure such default and Company shall be released from any obligation to give notice or to make demand upon, or to pursue any remedy against Lessee. It is understood that this shall be a continuing guaranty and shall cover all obligations and indebtedness which Lessee now has or may incur in the future.


Guarantor, _____

81 Eldenberry Rd. So. And. ME
Address

Witness:



Dated: 4-8-08

INITIALS:

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LESSOR



LESSEE



GUARANTY

In order to induce Getty Petroleum Marketing Inc., its Subsidiaries and Affiliated Companies (herein collectively called "Company"), with their offices located at LUKOIL Plaza, 1500 Hempstead Turnpike, East Meadow, New York, 11554 to extend credit to Richard Allen Stewart, Jr. of 81 Elderberry Drive, S. Portland, ME 04106 (herein called "Customer"), and in consideration thereof and of the interest of the undersigned (herein called "Guarantor", whether one or more) in having such credit extended and of the sum of One Dollar and other valuable considerations, receipt of which is hereby acknowledged, the undersigned hereby guarantees to the Company the full and prompt payment at maturity of all indebtedness of merchandise heretofore and hereafter bought by the Customer from the Company and of all rentals and all other indebtedness, howsoever arising, now due and hereafter becoming due to the Company from the Customer, and of all checks, drafts, notes, acceptances and renewals thereof given on account of such indebtedness.

If the Customer fails to pay any check, draft (including without limitation, electronic transfer), note, acceptance, bill, invoice, rental, or other indebtedness promptly when due, Guarantor agrees to pay the same promptly upon demand, the same as if Guarantor had bought the merchandise or incurred the rental or other indebtedness for his own account or had given or made directly such check, draft, note, or acceptance, it being agreed that Guarantor's liability hereunder is a primary obligation.

Guarantor agrees that without impairing his obligation hereunder the Company may at any time, without his consent or notice to him, upon such terms and conditions as it may deem advisable, (a) extend in whole or in part the time of payment of any indebtedness, or any part thereof, due the Company, and of any check, draft, note, or acceptance delivered to the Company, and may renew or defer payment of same and (b) settle, adjust, or compromise any indebtedness due or claimed to be due the Company. Guarantor ratifies and confirms every such deferring, extension, renewal, settlement, and adjustment, and agrees that the same shall be binding upon him, hereby waiving all defenses, counterclaims and offsets which he might or could have by reason thereof against the Company, it being understood that he shall at all times be and remain liable to the Company as the primary obligor hereunder for the amount of any obligation, indebtedness or liability of the Customer to the Company, howsoever arising, until same is paid in full.

Guarantor's obligation to make payment in accordance with the terms of this Guaranty shall not be impaired, modified, changed, released or limited in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of Customer or its estate in bankruptcy resulting from the operation of any present or future provision of the Bankruptcy Code or other similar statute, or from the decision of any court.

Guarantor agrees that any claim it may have against Customer shall be subordinate to Company's rights hereunder against Guarantor.

Guarantor waives (1) notice of acceptance hereof, (2) notice of orders for and deliveries of merchandise, (3) notice of any default in any payment by the Customer, (4) notice of presentment, demand, protest, extension, or of non-payment of any check, draft, note, acceptance, bill, invoice or rental, (5) notice of any default of Customer in carrying out any settlement, adjustment or compromise and (6) all rights to seek reimbursement from the Customer and will waive all recourse against the Customer.

This agreement is a continuing, unlimited, unconditional guaranty, and shall be in full force and effect until the Company shall receive, at its office in East Meadow, New York, or at such other office as the Company may designate in writing, by Certified Mail, Return Receipt Requested, written notice signed by Guarantor canceling same; but such cancellation shall not be effective until thirty (30) business days after same has been received and shall not release Guarantor from liability on any transaction covered herein prior to the actual receipt as herein set forth by Company of such written notice.

This guaranty is assignable by Company, shall be construed liberally in Company's favor, and shall inure to the benefit of Company's successors and assigns. It is also understood and agreed that Company may, without notice to Guarantor, sell, assign and transfer all or any portion of the indebtedness secured hereby, and that each and every immediate and successive assignee of transferee of such indebtedness shall have the right to enforce this guaranty, by legal action or otherwise, for the benefit of such assignee or transferee as fully as if such assignee or transferee were named herein; provided, however, that Company shall have the unimpaired right to enforce this guaranty for Company's benefit as to any indebtedness not sold, assigned or transferred.

The Guarantor hereby agrees to indemnify and reimburse the Company, and its successors and assigns, for reasonable attorney's fees, court costs and other legal expenses incurred by Company and its successors and assigns in enforcing this guaranty for any delinquency, or late payment charges or interest incurred by and charged to Customer.

Guarantor agrees that this instrument contains his entire agreement with the Company and that there is no other agreement (oral or written), understanding or custom whereby the provisions hereof have been or can be varied, modified or waived in any manner unless endorsed herein in writing, signed by an authorized Company representative and that the word "Guarantor" as used herein shall include plural as well as singular, and the pronouns "him" and "his" may refer to a non-gender entity or female as well as male and may include plural as well as singular, and that this instrument shall be the joint and several obligation of the subscribers hereto, their heirs, legal representatives, successors and assigns.

The Guaranty shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 10th day of April, 2008.

Witness to signature:

Kenneth Adams #

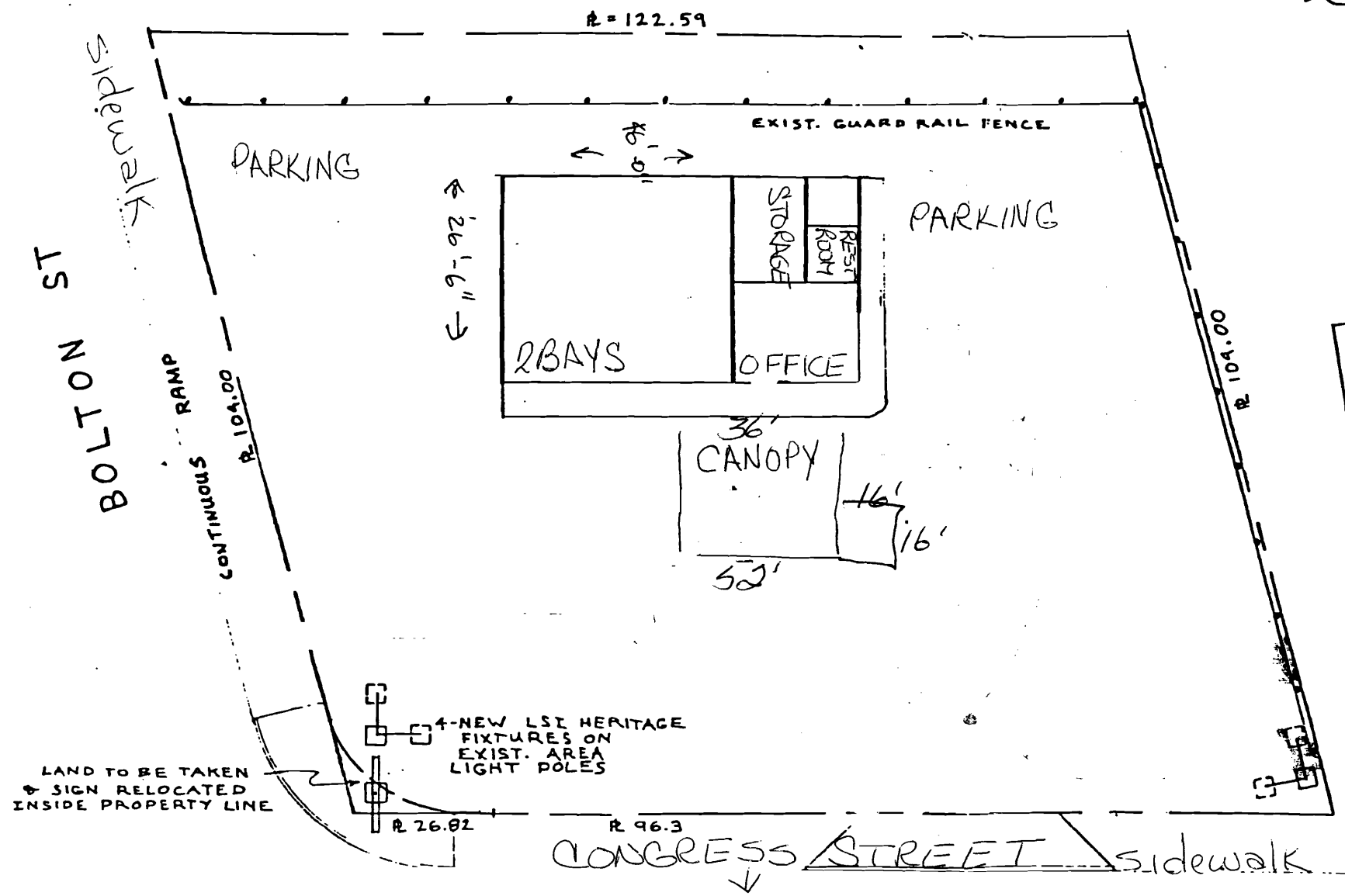
P. O. Address: P.O. Box 502

Windham ME 04062

By Richard Allen Stewart, Jr.
Richard Allen Stewart, Jr., Guarantor
P. O. Address: 81 Eldenberry Dr. So. Portland, ME
04106

AUG 24 2009

BOLTON ST
sidewalk



CONGRESS STREET
sidewalk

Power Test Realty Company Limited Partnership

August 14, 2009

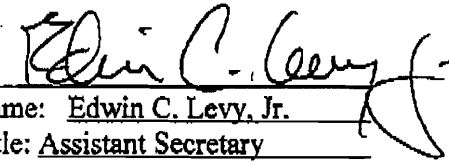
RE: 1217 Congress St., Portland, ME ("Property")
Location: 28032

TO WHOM IT MAY CONCERN:

Please be advised that ^{Richard} Robert A. Stewart, the subtenant of Power Test Realty Company Limited Partnership ("Owner") at 1217 Congress St., Portland, ME is authorized to represent the Owner in the matter of granting a hardship variance for the Property in order to continue to operate an automotive repair facilities in the bays located on the Property.

If you have any questions regarding this letter, please feel free to contact the undersigned at (516) 478-5426.

Very truly yours,
POWER TEST REALTY COMPANY LIMITED PARTNERSHIP

By: 
Name: Edwin C. Levy, Jr.
Title: Assistant Secretary

AUG 14 2009



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*

July 13, 2009

Dick Stewart
81 Elderberry Drive
South Portland, ME 04106

Re: 1217 Congress Street – 186 D001 – B-1 – auto repair station

Dear Dick,

I'm writing this letter as a follow up to the various discussions we have had about the use of the property as an auto repair garage.

At the end of December 2008, our office received a fire inspection slip from the city Clerk's office for D&M Automotive at 1217 Congress Street. Zoning has to check that the use is permitted in the zone that it is located in.

1217 Congress Street is located in the B-1 Neighborhood Business Zone. Section 14-162 of the ordinance lists the permitted uses, and section 14-163 lists the conditional uses for the B-1 zone. Section 14-164 states that "uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited". An auto repair service station is not listed in either section 14-162 or section 14-163, so it is not a permitted use.

Our records show that the property at 1217 Congress Street has been used as a auto repair service station in the past. On September 14, 1956 the Zoning Board of Appeals granted an appeal to build a 28' x 46' building to be used a motor vehicle service station. The appeal was necessary because the service station was not permitted in the zone. Our records show that this use as a service station was continued until sometime in 2006 when the underground tanks and gas pumps were removed. Permit #06-1381 was issued on October 23, 2006 to remove three underground storage tanks and associated piping. The permit was closed on October 29, 2007 after the work was completed. At this point building appeared to be vacant. Section 14-387 states that "if a nonconforming use of a building or premises is discontinued for a period of twelve (12) months, such discontinuance shall constitute an abandonment of the use and the building or premises shall not thereafter be occupied or used except in conformity with the provisions of this article".

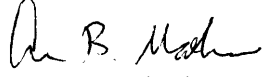
From the conversations that we have had, it appears that you cannot provide evidence to show that the building was not vacant for more than a year, so the legal non-conforming

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

use has been lost. Since the use as an auto repair service station is not legal, you must either vacate the premises or apply for a variance from the Zoning Board of Appeals. You indicated that you would like to apply for the variance, and I faxed you an application and guidelines on April 6, 2009. You have thirty days from the date of this letter to apply for a variance or you must vacate the premises. If we do not receive the application by then and you continue to operate your business, we will turn the matter over to our corporation counsel, and they may begin legal proceedings to bring the use of the property into compliance.

Please feel free to call me at 874-8709 if you have any questions.

Yours truly,



Ann B. Machado
Zoning Specialist
(207) 874-8709

8695 Marqe

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number	1 of 1
Parcel ID	186 D001001
Location	1217 CONGRESS ST
Land Use	RETAIL & PERSONAL SERVICE
Owner Address	POWER TEST REALTY 1500 HEMPSTEAD TURNPIKE EAST MEADOW NY 11554
Book/Page	6969/247
Legal	186-D-1 CONGRESS ST 1213-1221 BOLTON ST 1-7 12218 SF

2/1/05

Current Assessed Valuation

Land	Building	Total
\$263,800	\$110,700	\$374,500

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1964	1	1288	1
Total Acres	Total Buildings	Sq. Ft.	Structure Type	Building Name
0.28	1288		SERVICE STATION	GETTY OIL

Exterior/Interior Information

Section	Levels	Size	Use
1	01/01	1288	

Height	Walls	Heating	A/C
14	BRK/CONC BLK	HOT AIR	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE

Building Other Features

Line	Structure Type	Identical Units
1	CANOPY - ONLY	1
1	OVERHEAD DOOR - WD/MT	1

Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1970	ASPHALT PARKING	8000	1
1972	LIGHT - MERCURY VAPOR, POLE		2

1972	PAVING CONC AVG	52	1
------	-----------------	----	---

Sales Information

Date	Type	Price	Book/Page
------	------	-------	-----------

Picture and Sketch

<u>Picture</u>	<u>Sketch</u>	<u>Tax Map</u>
--------------------------------	-------------------------------	--------------------------------

[Click here](#) to view Tax Roll Information.
Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

[New Search!](#)

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

APPEAL AGENDA

Members Present:
Phil Sawyer, Peter Coyne,
Bill Gutz, Jill Hunter,
Sara Mappin, Gordon Smith

The Board of Appeals will hold a public hearing on Thursday, September 3, 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:

Start - 6:38

1. New Business:

A. Variance Appeal:

6-0
voted
1213-1221 Congress Street, Richard A. Stewart, Jr., lessee, Tax Map 186, Block D, Lot 001, B-1 Zone: The appellant is seeking a Variance Appeal under section 14-162 to allow an automobile garage repair shop as a permitted use. Representing the appeal is the lessee, Richard A. Stewart, Jr.

B. Conditional Use Appeal:

6-0
voted
conditional
250 Brackett Avenue, Peaks Island, Samuel S. Saltonstall, Peaks Environmental Action Team, lessee, Tax Map 088, Block K, Lot 001 & Tax Map 089, Block E, Lot 004, ROS Zone: The appellant is seeking a Conditional Use Appeal under section 14-155(d) to install a temporary wind anemometer tower. Representing the appeal is Samuel S. Saltonstall from Peaks Environmental Action Team.

C. Conditional Use Appeal:

6-0
voted
56 Pine Street, Harvac Properties, LLC, owner, Tax Map 056, Block C, Lot 005, B-1 Zone: The appellant is seeking a Conditional Use Appeal under section 14-163(a) to expand the existing restaurant, Caiola's. Representing the appeal is Lisa Viccaro, Harvac Properties, LLC.

2. Other Business:

A. Election for the offices of Chair and Secretary.

5-0 Gordon Smith Secretary

3. Adjournment: 7:34

5-0 Philip Sawyer Chair



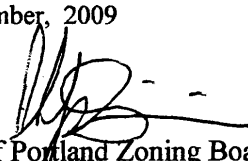
CITY OF PORTLAND

CERTIFICATE OF VARIANCE APPROVAL

I, Philip Saucier, the duly appointed Chair of the Board of Appeals for the City of Portland, Cumberland County and State of Maine, hereby certify that on the 3rd day of September 2009, the following variance was granted pursuant to the provisions of 30-A M.R.S.A. Section 4353(5) and the City of Portland's Code of Ordinances.

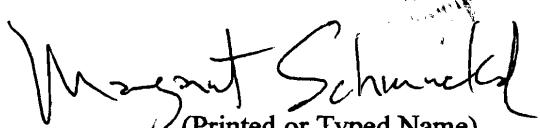
1. **Current Property Owner: Power Test Realty**
2. **Property: 1217 Congress Street, Portland, ME CBL: 186-D-001**
Cumberland County Registry of Deeds, Book 6969 Page 247
Last recorded deed in chain of Title: 2/1/85
3. **Variance and Conditions of Variance:**
To grant relief from section 14-162 to allow an automobile garage repair shop as a permitted use which is not currently listed as a permitted use.

IN WITNESS WHEREOF, I have hereto set my hand and seal this *3rd* day of September, 2009


City of Portland Zoning Board,
Philip Saucier
(Printed or Typed Name)

STATE OF MAINE
Cumberland, ss.

Then personally appeared the above-named Philip Saucier and acknowledged the above certificate to be his free act and deed in his capacity as Chairman of the Portland Board of Appeals, with his signature witnessed on *9/8/*, 2009


(Printed or Typed Name)
Notary Public
margaret Schmuckel
My term expires *6/28/2012*

PURSUANT TO 30-A M.R.S.A. SECTION 4353(5), THIS CERTIFICATE MUST BE RECORDED BY THE PROPERTY OWNER IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS WITHIN 90 DAYS FROM FINAL WRITTEN APPROVAL FOR THE VARIANCE TO BE VALID. FURTHERMORE, THIS VARIANCE IS SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 14-474 OF THE CITY OF PORTLAND'S CODE OF ORDINANCES.



CITY OF PORTLAND

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, Chair of
City of Portland Zoning Board,
Philip Saucier
(Printed or Typed Name)

STATE OF MAINE
Cumberland, ss.

Then personally appeared the above-named Philip Saucier and acknowledged the above certificate to be his free act and deed in his capacity as Chairman of the Portland Board of Appeals, with his signature witnessed on , 2009

(Printed or Typed Name)
Notary Public

My term expires

PURSUANT TO 30-A M.R.S.A. SECTION 4353(5), THIS CERTIFICATE MUST BE RECORDED BY THE PROPERTY OWNER IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS WITHIN 90 DAYS FROM FINAL WRITTEN APPROVAL FOR THE VARIANCE TO BE VALID. FURTHERMORE, THIS VARIANCE IS SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 14-474 OF THE CITY OF PORTLAND'S CODE OF ORDINANCES.

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

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

September 15, 2009

Richard A. Stewart, Jr.
D& M Automotive, LLC
1217 Congress Street
Portland, ME 04101

RE: 1217 Congress Street
CBL: 186 D001
ZONE: B-1

Dear Mr. Stewart:

As you know, at the September 3, 2009 meeting, the Board voted 6-0 to approve your Variance Appeal to allow your automobile garage repair shop as a permitted use.

I am enclosing your Certificate of Variance Approval. **The original must be recorded in the Cumberland County Registry of Deeds within 30 days of September 8, 2009, when it was signed.** Failure to record the Certificate will result in it being voided. This office shall be provided with a copy of the recorded certificate of Variance showing the book and page recorded.

Enclosed please find the billing for the abutter's notification; also a copy of the board's decision. You are also required to submit a permit application to establish the use of the property as an auto repair shop again. Enclosed is an application to establish the use of the property. You have six months from the date of this letter, referenced under section 14-473(e), to apply to establish the use, or your Zoning Board approval will expire.

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 207-874-8709.

Yours Truly,



Ann B. Machado
Zoning Specialist



file

CITY OF PORTLAND

CERTIFICATE OF VARIANCE APPROVAL

I, Philip Saucier, the duly appointed Chair of the Board of Appeals for the City of Portland, Cumberland County and State of Maine, hereby certify that on the 3rd day of September 2009, the following variance was granted pursuant to the provisions of 30-A M.R.S.A. Section 4353(5) and the City of Portland's Code of Ordinances.

1. **Current Property Owner: Power Test Realty**
2. **Property: 1217 Congress Street, Portland, ME CBL: 186-D-001**
Cumberland County Registry of Deeds, Book 6969 Page 247
Last recorded deed in chain of Title: 2/1/85
3. **Variance and Conditions of Variance:**
To grant relief from section 14-162 to allow an automobile garage repair shop as a permitted use which is not currently listed as a permitted use.

IN WITNESS WHEREOF, I have hereto set my hand and seal this

8th

day of September, 2009


City of Portland Zoning Board,
Philip Saucier

, Chair of

(Printed or Typed Name)

STATE OF MAINE
Cumberland, ss.

Then personally appeared the above-named Philip Saucier and acknowledged the above certificate to be his free act and deed in his capacity as Chairman of the Portland Board of Appeals, with his signature witnessed on 9/8/2009, 2009


(Printed or Typed Name)

Notary Public
Margaret Schmuckel

My term expires 6/28/2012

PURSUANT TO 30-A M.R.S.A. SECTION 4353(5), THIS CERTIFICATE MUST BE RECORDED BY THE PROPERTY OWNER IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS WITHIN 90 DAYS FROM FINAL WRITTEN APPROVAL FOR THE VARIANCE TO BE VALID. FURTHERMORE, THIS VARIANCE IS SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 14-474 OF THE CITY OF PORTLAND'S CODE OF ORDINANCES.

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk
From: Marge Schmuckal, Zoning Administrator
Date: September 8, 2009
RE: Action taken by the Zoning Board of Appeals on September 3, 2009.

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

1. New Business:

A. Variance Appeal:

1213-1221 Congress Street, Richard A. Stewart, Jr., lessee, Tax Map 186, Block D, Lot 001, B-1 Zone: The appellant is seeking a Variance Appeal under section 14-162 to allow an automobile garage repair shop as a permitted use. Representing the appeal is the lessee, Richard A. Stewart, Jr. **The Board voted 6-0 to grant the Variance Appeal.**

B. Conditional Use Appeal:

250 Brackett Avenue, Peaks Island, Samuel S. Saltonstall, Peaks Environmental Action Team, lessee, Tax Map 088, Block K, Lot 001 & Tax Map 089, Block E, Lot 004, ROS Zone: The appellant is seeking a Conditional Use Appeal under section 14-155(d) to install a temporary wind anemometer tower. Representing the appeal is Samuel S. Saltonstall from Peaks Environmental Action Team. **The Board voted 6-0 to grant the Conditional Use Appeal with two conditions. The applicant must submit proof of insurance and proof of a removal agreement with the tower provider.**

C. Conditional Use Appeal:

56 Pine Street, Harvac Properties, LLC, owner, Tax Map 056, Block C, Lot 005, B-1 Zone: The appellant is seeking a Conditional Use Appeal under section 14-163(a) to expand the existing restaurant, Caiola's. Representing the appeal is Lisa Viccaro, Harvac Properties, LLC. **The Board voted 6-0 to grant the Conditional Use Appeal.**

2. Other Business:

A. Election for the offices of Chair and Secretary. Philip Saucier was elected Chair for the next term and Gordon Smith Was elected Secretary for the next term.

Enclosure:

Agenda of September 3, 2009
Original Zoning Board Decision
One dvd
CC: Joseph Gray, City Manager
Penny St. Louis Littell, Director, Planning & Urban Development
Alex Jaegerman, Planning Division
T.J. Martzial, Housing & Neighborhood Services Division

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

“Undue Hardship” Variance Appeal

DECISION

Date of public hearing: September 3, 2009

Name and address of applicant: Richard A. Stewart, Jr.
D & M Automotive LLC
1217 Congress St.
Portland, ME 04103

Location of property under appeal: 1217 Congress St.

For the Record:

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

Richard Stewart

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

N/A

Findings of Fact and Conclusions of Law:

The property located at 1217 Congress St. was used as an auto repair service station from 1956 to October of 2007. In 2008, the applicant leased the property to be used as an auto repair facility. Because the nonconforming use was discontinued for more than a year, the use is considered abandoned and the applicant must get a variance in order to proceed with the proposed use of the property as an auto repair facility.

“Undue Hardship” Variance standard pursuant to Portland City Code §14-473(c)(1):

1. The land in question cannot yield a reasonable return unless a variance is granted. (Note: “Failure to yield a ‘reasonable return’ means ‘the practical loss of all beneficial use of the land.’ . . . Reasonable return does not mean maximum return.” *Rowe v. City of South Portland*, 730 A.2d 673, 675 (Me. 1999) (citations omitted).)

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

Applicant will not be able to operate service station + therefore will not be able to fulfill terms of lease w/ Getty; Applicant will not use property for any other purpose

2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

no other service stations in the vicinity

3. The granting of a variance will not alter the essential character of the locality.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

Variance will result in no change b/c
service station is currently there.

4. The hardship is not the result of action taken by the applicant or a prior owner.

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

city has not ~~presented~~ presented evidence
that use was discontinued for more
than 12 months. Applicant did not
make any changes to property or
change use.

Conclusion: (check one)

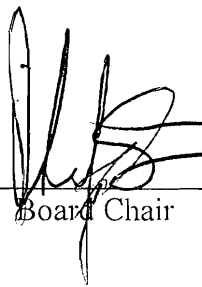
☒ Option 1: The Board finds that the standards described above (1 through 4) have been satisfied and therefore GRANTS the application.

☐ Option 2: The Board finds that while the standards described above (1 through 4) have been satisfied, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

☐ Option 3: The Board finds that the standards described above (1 through 4) have NOT all been satisfied and therefore DENIES the application.

Dated:

9.3.09



Board Chair

CITY OF PORTLAND

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
Portland, Maine 04101

INVOICE FOR FEES

Application No:	0000-1544	Applicant:	Richard A. Stewart, Jr.
Project Name:	1217 Congress St	Location:	1217 CONGRESS ST
CBL:	186 D001001	Application Type:	Variance Appeal
Invoice Date:	08/18/2009		

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$277.50		\$207.00		\$70.50	On Receipt

First Billing

Previous Balance	\$0.00
------------------	--------

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements	1	\$57.00
Notices	94	\$70.50
Legal Ad Processing Fee	1	\$50.00
Appeal Fee	1	\$100.00
		\$277.50
Total Current Fees:		+ \$277.50
Total Current Payments:		- \$207.00
Amount Due Now:		\$70.50

Detach and remit with payment

Bill to: Richard A. Stewart, Jr.
1217 Congress Street
Portland, ME 04103

CBL 186 D001001
Application No: 0000-1544
Invoice Date: 08/18/2009
Invoice No: 35302
Total Amt Due: \$70.50
Payment Amount:

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

CITY OF PORTLAND

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
Portland, Maine 04101

INVOICE FOR FEES

Application No:	0000-1544	Applicant:	Richard A. Stewart, Jr.
Project Name:	1217 Congress St	Location:	1217 CONGRESS ST
CBL:	186 D001001	Application Type:	Variance Appeal
Invoice Date:	08/18/2009		

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$207.00		\$207.00		\$0.00	On Receipt

Previous Balance\$0.00

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements	1	\$57.00
Legal Ad Processing Fee	1	\$50.00
Appeal Fee	1	\$100.00
		\$207.00
Total Current Fees:		+\$207.00
Total Current Payments:		-\$207.00
Amount Due Now:		\$0.00

Bill to: Richard A. Stewart, Jr.
1217 Congress Street
Portland, ME 04103

CBL 186 D001001
Application No: 0000-1544
Invoice Date: 08/18/2009
Invoice No: 35302
Total Amt Due: \$0.00
Payment Amount: \$207.00

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

CITY OF PORTLAND

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
Portland, Maine 04101

INVOICE FOR FEES

Application No:	0000-1544	Applicant:	Richard A. Stewart, Jr.
Project Name:	1217 Congress St	Location:	1217 CONGRESS ST
CBL:	186 D001001	Application Type:	Variance Appeal
Invoice Date:	08/18/2009		

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$100.00		\$100.00		\$0.00	On Receipt

Previous Balance	\$0.00
------------------	--------

Fee Description	Qty	Fee/Deposit Charge
Appeal Fee	1	\$100.00
		\$100.00
Total Current Fees:	+	\$100.00
Total Current Payments:	-	\$100.00
Amount Due Now:		\$0.00

Bill to:

Richard A. Stewart, Jr.
1217 Congress Street
Portland, ME 04103

CBL 186 D001001

Application No: 0000-1544

Invoice Date: 08/18/2009

Invoice No: 35302

Total Amt Due: \$0.00

Payment Amount: \$100.00

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

Gayle Guertin - FW: zoning board of appeals legal ad

From: Joan Jensen <jjensen@pressherald.com>
To: Gayle Guertin <GG@portlandmaine.gov>
Date: 8/25/2009 12:27 PM
Subject: FW: zoning board of appeals legal ad

Hi Gayle!

All set to run your ad on Friday, August 28.
The cost is \$170.09.

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

Thank you,
Joan

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

Good Morning Joan,

Attached is the Zoning Board of Appeals legal ad for Friday, August 28, 2009.

Thank You
Gayle Guertin @ 874-8701

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
078 A001001	M W SEWALL & CO	259 FRONT ST BATH, ME 04530	1199 CONGRESS ST	1
078 A004001	M W SEWALL & CO	259 FRONT ST BATH, ME 04530	11 MASSACHUSETTS AVE	3
078 A005001	WILSON JANINE M	PO BOX 721 MTN RD DENMARK, ME 04022	21 MASSACHUSETTS AVE	2
078 A007001	GAVIN MAUREEN C	25 MASSACHUSETTS AVE PORTLAND, ME 04102	25 MASSACHUSETTS AVE	1
078 A008001	NEWMAN DEBORAH L	PO BOX 6816 PORTLAND, ME 04103	31 MASSACHUSETTS AVE	1
078 A009001	NEE THOMAS J & KATHRYN A JTS	35 MASSACHUSETTS AVE PORTLAND, ME 04102	35 MASSACHUSETTS AVE	1
078 A010001	MARKOVIC ZDRAVKO & RADMILA MARKOVIC JTS	39 MASSACHUSETTS AVE PORTLAND, ME 04102	39 MASSACHUSETTS AVE	1
078 A011001	MCCARRIER FRANCIS J & JANE W THOMAS JTS	45 MASSACHUSETTS AVE PORTLAND, ME 04102	45 MASSACHUSETTS AVE	1
078 A012001	PARKER RACHEL G	49 MASSACHUSETTS AVE PORTLAND, ME 04102	49 MASSACHUSETTS AVE	1
078 A019001	DUBEAU ERNEST W & CYNTHIA L DUBEAU JTS	84 DOUGLASS ST PORTLAND, ME 04102	84 DOUGLASS ST	1
078 A020001	ESTES CHRISTOPHER D & JUDITH A ESTES JTS	150 STROUT ST SOUTH PORTLAND, ME 04106	29 MASSACHUSETTS AVE	1
078 A021001	DEWEVER LILLIAN L WID WWII & RONALD J BLAIS KW VET JTS	80 DOUGLASS ST PORTLAND, ME 04102	80 DOUGLASS ST	1
078 A022001	TAYLOR BEAN & WHITAKER	1417 NORTH MAGONILA AVE OCALA, FL 34475	76 DOUGLASS ST	1
078 A024001	ALVES KATHERINE R & ROLANDE BOUCHER JTS	66 DOUGLASS ST PORTLAND, ME 04102	66 DOUGLASS ST	1
078 A026001	BEAULIEU BRIAN J & MARY C JTS	62 DOUGLASS ST PORTLAND, ME 04102	62 DOUGLASS ST	2
078 A027001	FORD THOMAS J	58 DOUGLASS ST PORTLAND, ME 04102	58 DOUGLASS ST	2
078 A028001	SOEUNG VONG	56 DOUGLASS ST PORTLAND, ME 04102	56 DOUGLASS ST	2
078 A029001	COOLEGE KEVIN P	52 DOUGLASS ST PORTLAND, ME 04102	52 DOUGLASS ST	1
078 A030001	CHESSEY DAVID P & JOAN M	55 EDWARDS ST PORTLAND, ME 04102	50 DOUGLASS ST	2
078 A031001	JOHNSON WALTER L & LINDA A % JOHNSON'S SPORTING GOODS	206 COOKS CORNER BRUNSWICK, ME 04011	1183 CONGRESS ST	2
078 A034001	JOHNSON WALTER L & LINDA A JOHNSON JTS	206 COOKS CORNER BRUNSWICK, ME 04011	1189 CONGRESS ST	1
078 B001001	BEAULIEU BRIAN J & MARY C JTS	63 DOUGLASS ST PORTLAND, ME 04102	59 DOUGLASS ST	1
078 B002001	MITSCHELE PETER	240 WOODVILLE RD FALMOUTH, ME 04105	67 DOUGLASS ST	2
078 B003001	BRADSTREET JONATHAN	75 DOUGLASS ST PORTLAND, ME 04102	75 DOUGLASS ST	2
078 B004001	O'ROURKE CHARLES G & ROBINA G JTS	79 DOUGLASS ST PORTLAND, ME 04102	79 DOUGLASS ST	2
078 B042001	LOSIER GERALDINE O	71 DOUGLASS ST PORTLAND, ME 04102	71 DOUGLASS ST	2
078 C001001	RICHARDSON ROBERT W & WAI KUE YEE	51 DOUGLASS ST PORTLAND, ME 04102	51 DOUGLASS ST	3
078 C019001	RAHEM LLC	PO BOX 6149 FALMOUTH, ME 04105	47 DOUGLASS ST	3
078 C029001	WENZEL GARY M & RACHEL E WENZEL JTS	45 DOUGLASS ST PORTLAND, ME 04102	45 DOUGLASS ST	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
186 A001001	TONER BRUCE M & SHARMON A	12 GRANITE RIDGE RD WINDHAM, ME 04062	1263 CONGRESS ST	3
186 A002001	WESTBROOK DEVELOPMENT CORPORATION	30 LIZA HARMON DR WESTBROOK, ME 04092	1257 CONGRESS ST	1
186 A003001	WESTBROOK DEVELOPMENT CORPORATION	30 LIZA HARMON DR WESTBROOK, ME 04092	1251 CONGRESS ST	1
186 A006001	WADE DAVID M & CLAIRE WINSTON-WADE JTS	PO BOX 238 PHIPPSBURG, ME 04562	17 FRANCES ST	1
186 A013001	MURRAY CELEST L & NORMAN D JTS	16 WHITNEY AVE PORTLAND, ME 04102	16 WHITNEY AVE	1
186 A014001	DAVIS JEFF	PO BOX 3084 PORTLAND, ME 04104	18 WHITNEY AVE	3
186 A015001	JACOBSON ANTHONY M III	105 DARTMOUTH ST 3 PORTLAND, ME 04103	22 WHITNEY AVE	3
186 A016001	MCDONOUGH MARY M WID WWII	28 WHITNEY AVE PORTLAND, ME 04102	28 WHITNEY AVE	1
186 A017001	ROTH TED M	30 WHITNEY AVE PORTLAND, ME 04102	30 WHITNEY AVE	1
186 A018001	COAKLEY ROBERT W & DEBORAH J W JTS	34 WHITNEY AVE PORTLAND, ME 04102	34 WHITNEY AVE	1
186 A019001	MAIRS H DONALD & LINDA MAIRS JTS	5227 COUNTY ROUTE 7 SPENTERTOWN, NY 12165	40 WHITNEY AVE	1
186 C001001	HAYWARD PETER BRUENNER & DIANA L ELLIS JTS	1239 CONGRESS ST PORTLAND, ME 04102	1239 CONGRESS ST	2
186 C002001	WASHAM KIMBERLY A	1235 CONGRESS ST PORTLAND, ME 04102	1235 CONGRESS ST	1
186 C003001	ANANIA'S INC	1227 CONGRESS ST PORTLAND, ME 04102	1227 CONGRESS ST	1
186 C004001	NOYES CHARLES E & SHARON E JTS	31 ABRAHAMSON RD GRAY, ME 04039	9 WHITNEY AVE	2
186 C006001	QUINN THEODORE SAMUEL	213 PLEASANT HILL RD SCARBOROUGH, ME 04074	15 WHITNEY AVE	2
186 C007001	STEDMAN DEIRDRE M	19 WHITNEY AVE PORTLAND, ME 04102	19 WHITNEY AVE	2
186 C008001	CANNON JOHN A & DONNA J CARR	25 WHITNEY AVE PORTLAND, ME 04102	23 WHITNEY AVE	1
186 C009001	MCFARLAND HUGH E & BARBARA E JTS	31 WHITNEY AVE PORTLAND, ME 04102	31 WHITNEY AVE	1
186 C010001	FOURNIER MELISSA E & BRIAN T MARCAURELLE JTS	35 WHITNEY AVE PORTLAND, ME 04102	35 WHITNEY AVE	1
186 C011001	DAY REGINA M	3 SCHOONER RD SCARBOROUGH, ME 04074	37 WHITNEY AVE	1
186 C012001	WILLIAMS THERESA J M	41 WHITNEY AVE PORTLAND, ME 04102	41 WHITNEY AVE	1
186 C027001	3A PROPERTIES	1227 CONGRESS ST PORTLAND, ME 04102	18 BOLTON ST	3
186 C029001	ROWDEN JAMES W KW VET & DOROTHY M JTS	26 BOLTON ST PORTLAND, ME 04102	26 BOLTON ST	1
186 C030001	JACKSON KATHERINE A & JAMES M JTS	30 BOLTON ST PORTLAND, ME 04102	30 BOLTON ST	3
186 C031001	LORING PAUL F KW VET	36 BOLTON ST PORTLAND, ME 04102	34 BOLTON ST	3
186 C032001	ROBERTS CHRISTOPHER A & MOULAY M IBOURK JTS	38 BOLTON ST PORTLAND, ME 04102	38 BOLTON ST	3
186 C033001	COOLEGE KENNETH P III & LOVEINER R JTS	42 BOLTON ST PORTLAND, ME 04102	42 BOLTON ST	1
186 C035001	LABERGE ERNEST J WWII VET	52 BOLTON ST PORTLAND, ME 04102	52 BOLTON ST	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
186 D001001	POWER TEST REALTY	1500 HEMPSTEAD TURNPIKE EAST MEADOW , NY 11554	1217 CONGRESS ST	1
186 D002001	DEVOE MARK G & JEANNE I SHRUM JTS	15 BOLTON ST PORTLAND , ME 04102	15 BOLTON ST	2
186 D003001	PERRY DAVID J II & ANN MCGEEHAN JTS	64 MARLU ST WESTBROOK, ME 04092	25 BOLTON ST	3
186 D005001	LORANGER FRANCIS C & NANCY E DEANE JTS	70 ALDEN CIR PORTLAND, ME 04102	35 BOLTON ST	3
186 D007001	LORANGER FRANCIS C & NANCY E DEANE JTS	70 ALDEN CIRCLE PORTLAND, ME 04102	37 BOLTON ST	1
186 D008001	MACDONALD RICHARD F & JEAN W JTS	44 OAK ST WESTBROOK , ME 04092	43 BOLTON ST	3
186 D009001	PERAZONE STEPHEN J & JENNIFER HALM-PERAZONE JTS	47 BOLTON ST PORTLAND, ME 04102	47 BOLTON ST	1
186 D010001	HOME STATE PROPERTIES LLC	150 GLENWOOD AVE PORTLAND , ME 04103	49 BOLTON ST	6
186 D024001	OLSON CHRISTIAN & SARAH OLSON JTS	8 MASSACHUSETTS AVE PORTLAND , ME 04102	8 MASSACHUSETTS AVE	3
186 D025001	CORBIN JOSHUA N	14 MASSACHUSETTS AVE PORTLAND , ME 04102	12 MASSACHUSETTS AVE	2
186 D026001	JANCO SCOTT J & EOIN J LYNCH	16 MASSACHUSETTS AVE PORTLAND , ME 04102	16 MASSACHUSETTS AVE	1
186 D026002	FARRELL STEPHEN	18 MASSACHUSETTS AVE PORTLAND , ME 04102	18 MASSACHUSETTS AVE	1
186 D028001	MASS AVE LLC	138 STROUDWATER RD PORTLAND , ME 04102	24 MASSACHUSETTS AVE	2
186 D029001	DONNELLY GARY P & AMY E DONNELLY JTS	28 MASSACHUSETTS AVE PORTLAND , ME 04102	28 MASSACHUSETTS AVE	1
186 D030001	HOLMQUIST LISA RAE	38 MASSACHUSETTS AVE PORTLAND , ME 04102	38 MASSACHUSETTS AVE	1
186 D032001	WARREN BRUCE W	42 MASSACHUSETTS AVE PORTLAND , ME 04102	42 MASSACHUSETTS AVE	1
186 D033001	GAGNE PAUL R & JAMES N BOULEY JTS	48 MASSACHUSETTS AVE PORTLAND, ME 04102	48 MASSACHUSETTS AVE	1
186 D035001	RUSO LORRAINE E WID WWII	54 MASSACHUSETTS AVE PORTLAND, ME 04102	54 MASSACHUSETTS AVE	1
186 D036001	JONES MICHAEL E	56 MASSACHUSETTS AVE PORTLAND , ME 04102	56 MASSACHUSETTS AVE	1
186 D055001	BUEST LLC	4 MASSACHUSETTS AVE PORTLAND , ME 04102	4 MASSACHUSETTS AVE	3
186 D056001	FOURNIER LUCY M TRUSTEE	1408 WESTBROOK ST PORTLAND , ME 04102	9 BOLTON ST	1
189 A001001	FIDDLER'S GREEN LLC	36 LIBERTY WAY PORTLAND , ME 04103	1236 CONGRESS ST	1
189 A002001	TRUE KAREN A	14 SEWALL ST PORTLAND , ME 04102	14 SEWALL ST	1
189 A003001	HILTON STEPHEN P	19 OLE IRONSIDE LN SCARBOROUGH, ME 04074	18 SEWALL ST	1
189 A004001	HILTON STEPHEN P	19 OLD IRONSIDE LN SCARBOROUGH , ME 04074	24 SEWALL ST	1
189 A005001	HILTON STEPHEN	19 OLE IRONSIDE LN SCARBOROUGH , ME 04074	28 SEWALL ST	1
189 A006001	EYE VENTURE ASSOCIATES LLP	53 SEWALL ST PORTLAND , ME 04102	32 SEWALL ST	1
189 A010001	OLYMPIA EQUITY INVESTORS I LP	280 FORE ST STE 202 PORTLAND , ME 04101	1232 CONGRESS ST	1
189 A011001	DUGAS JOSEPH F TRUSTEE	275 MILL WAY BOX 271 BARNSTABLE HARBOR, MA 02630	1196 CONGRESS ST	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
189 A012001	DUGAS JOSEPH F TRUSTEE	275 MILL WAY BOX 271 BARNSTABLE HARBOR, MA 02630	1206 CONGRESS ST	1
189 A013001	OLYMPIA EQUITY INVESTORS III	280 FORE ST STE 202 PORTLAND , ME 04101	1200 CONGRESS ST	1
189 A014001	OLYMPIA EQUITY INVESTORS I LP	280 FORE ST STE 202 PORTLAND , ME 04101	1230 CONGRESS ST	149
189 A015001	OLYMPIA EQUITY INVESTORS III	280 FORE ST STE 202 PORTLAND , ME 04101	1186 CONGRESS ST	1
190 D001001	1250 CONGRESS STREET ASSOCIATES	1250 CONGRESS ST PORTLAND, ME 04102	1250 CONGRESS ST	1
190 D003001	FORE RIVER REALTY SUB LLC	PO BOX 1260 PORTLAND , ME 04104	33 SEWALL ST	1
190 D004001	ANTONIOU MARGARET E	15 SEWALL ST PORTLAND, ME 04102	15 SEWALL ST	1
190 D010001	1250 CONGRESS ST ASSOCIATES	1250 CONGRESS ST PORTLAND, ME 04102	1258 CONGRESS ST	1
190 D011001	DILLON FREDERICK H & LINE C PELLETIER JTS	18 DAVIS ST PORTLAND , ME 04102	18 DAVIS ST	1
190 D013001	SAVARD LOUIS M	20 DAVIS ST PORTLAND , ME 04102	22 DAVIS ST	1

CBL	OWNER		OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
Total Listed	97	UNITS	297		



City of Portland Zoning Board of Appeals

August 27, 2009

Richard A. Stewart, JR.
D & M Automotive, LLC
1217 Congress Street
Portland, Maine 04103

Dear Appellant,

Your Variance Appeal has been scheduled to appear before the Zoning Board of Appeals on **Thursday, September 03, 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.

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: Getty Petroleum, Inc.
File

**389 Congress Street
Portland, Maine 04101**

Application No:	0000-1544	Applicant:	Richard A. Stewart, Jr.
Project Name:	1217 Congress St	Location:	1217 CONGRESS ST
CBL:	186 D001001	Application Type:	Variance Appeal
Invoice Date:	08/18/2009		

Previous Balance	\$0.00
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	CBL 186 D001001
	Application No: 0000-1544
	Invoice Date: 08/18/2009
Bill to: Richard A. Stewart, Jr.	Invoice No: 35302
1217 Congress Street	Total Amt Due: \$0.00
Portland, ME 04103	Payment Amount: \$100.00

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

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, September 3, 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. Variance Appeal:

1213-1221 Congress Street, Richard A. Stewart, Jr., lessee, Tax Map 186, Block D, Lot 001, B-1 Zone: The appellant is seeking a Variance Appeal under section 14-162 to allow an automobile garage repair shop as a permitted use. Representing the appeal is the lessee, Richard A. Stewart, Jr.

B. Conditional Use Appeal:

250 Brackett Avenue, Peaks Island, Samuel S. Saltonstall, Peaks Environmental Action Team, lessee, Tax Map 088, Block K, Lot 001 & Tax Map 089, Block E, Lot 004, ROS Zone: The appellant is seeking a Conditional Use Appeal under section 14-155(d) to install a temporary wind anemometer tower. Representing the appeal is Samuel S. Saltonstall from Peaks Environmental Action Team.

C. Conditional Use Appeal:

56 Pine Street, Harvac Properties, LLC, owner, Tax Map 056, Block C, Lot 005, B-1 Zone: The appellant is seeking a Conditional Use Appeal under section 14-163(a) to expand the existing restaurant, Caiola's. Representing the appeal is Lisa Viccaro, Harvac Properties, LLC.

2. Other Business:

A. Election for the offices of Chair and Secretary.

3. Adjournment:

