

1. Agenda

Documents: [03-05-15 AGENDA.PDF](#)

2. Application

Documents: [ZBA APPLICATION - 161 CLINTON ST.PDF](#)

# **CITY OF PORTLAND, MAINE**

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## **ZONING BOARD OF APPEALS**

### **APPEAL AGENDA**

**The Board of Appeals will hold a Public Hearing on Thursday, March 5, 2015, at 6:30 p.m. on the Second Floor in Room 209, Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following appeal:**

**1. New Business:**

**A. Conditional Use Appeal:**

161 Clinton Street, Jeffrey Runge and Lynn Rutter, owners, Tax Map 135, Block C, Lots 014, R-5 Residential Zone: The applicants are seeking a Conditional Use Appeal under section 14-118(c)(3) to operate a daycare for up to twelve (12) children in their home. Representing the appeal is the owner, Lynn Rutter.

**2. Adjournment**

E-mail:

lynn.rutter321@gmail.com

Department of Planning & Urban Development

Marge Schmuckal  
Zoning Administrator

Jeff Levine  
Director Planning & Urban Development



CITY OF PORTLAND ZONING BOARD OF APPEALS  
Conditional Use Appeal Application

Applicant Information:

Lynn Rutter  
NAME  
161 Clinton St  
BUSINESS NAME  
Portland ME.  
ADDRESS  
603-479-1731  
TELEPHONE #  
owner  
APPLICANT'S RIGHT, TITLE OR INTEREST  
(eg; owner, purchaser, etc)  
R-5  
CURRENT ZONING DESIGNATION

Subject Property Information

same  
PROPERTY ADDRESS  
135-C-14  
CHART/BLOCK/LOT (CBL)  
PROPERTY OWNER (if different)  
NAME  
ADDRESS  
CONDITIONAL USE AUTHORIZED BY  
SECTION 14 - 118(c)(3)

EXISTING USE OF PROPERTY:

single family with Home Occupation  
Change of use  
Daycare up to six

TYPE OF CONDITIONAL USE  
PROPOSED:

Day Care up to 12

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

1. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses of other allowable uses in the zone.

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

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

[Signature]  
SIGNATURE OF APPLICANT

1-12-15  
DATE

389 Congress St., Room 315, Portland, Maine 04101: (207) 874-8703 : FAX: 874-8936: TTY 874-8936

**Roots-n-Shoots Preschool**  
**Lynn Rutter**  
161 Clinton St. Portland, ME 04103  
Cell 603-479-1731    lynn.rootnsnshoots@gmail.com

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February 12, 2015

Ann Machado  
Acting Zoning Administrator

To the Zoning Board of Appeals;

Thank you for considering my request for a Conditional Use Appeal. I have a Family Home Child Care in a R-5 zone, 161 Clinton Street, that I opened September of 2013. It has been a great success for children and their parents and well received by the local community.

Please accept this application to change my status as a Home Occupation Family Child Care to a Daycare for up to 12 children in the R-5 zone.

I have realized a financial hardship. Although, I am licensed to enroll six children, it is difficult to maintain enrollment at the maximum. At the beginning of the school year, parents will confirm, pay the deposit yet at the last minute find alternative care, primarily receive acceptance to the free public preschool. The number enrolled decreases as the year proceeds too as families move and withdraw for any number of reasons. If I had slightly more flexibility, ideally to enroll up to eight children, I would be in a better position financially to adjust to enrollment losses, creating a more sustainable business.

In response to the criteria in section 14-118(c) (3) and the (3) standards listed on the Conditional Use Application:

**1. Off Street Parking**

*The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially grater than would normally occur at surrounding uses or other allowable uses in the same zone.*

Many parents walk from neighboring homes, car pool and arrive and depart at varying times. They can pull into our driveway for drop off and pick up. There may be at most (3) additional cars for a five-minute period.

The hours of operation are between 9:00 a.m. and 3:00 p.m. Longfellow School, nearby on Stevens Ave., begins at 8:30.

*2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, order, lighting, or litter*

The children ages 3-5 years will play outside for an hour of the preschool day and during that time we often visit Baxter Woods, Evergreen Cemetery, Burbank Library, or neighboring businesses for field trips. Their bodies are small and they are mostly quiet. The school does not create any harmful conditions.

*3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures and materials storage will not have a substantially greater effect impact on surrounding properties than those associated with surrounding uses of other allowable uses in the zone.*

The backyard is well landscaped, screened and buffered. I am a Cooperative Extension, Master Gardener and have shown my yard on several garden tours. We have an extensive organic garden and fruit trees and bushes in the side and back yard. There are rows of hemlock trees between the abutting neighbors.

Toys are stored in the garage.

My husband and I occupy the home and it is compatible with the other surrounding properties; there are no exterior alterations or visible signs that it is more than a residential home.

*d. Solid Waste shall be stored in covered containers. Such containers shall be screened on all four(4) sides."*

Recycling containers are enclosed on our back porch and screened by our porch railings. We are a Nature-Based Preschool and generate very little waste. Parents pack lunch for children in reusable containers. Children are out of diapers. We use cloth towels for our hands.

**Permit ID 2013-01426   Issue Date 08/12/2013   CBL: CO14001**

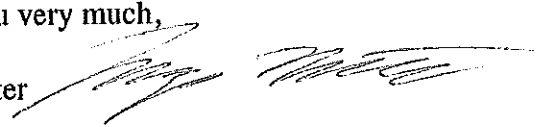
**Sketch Addendum and Plat Map File**

**No. 12-7463**

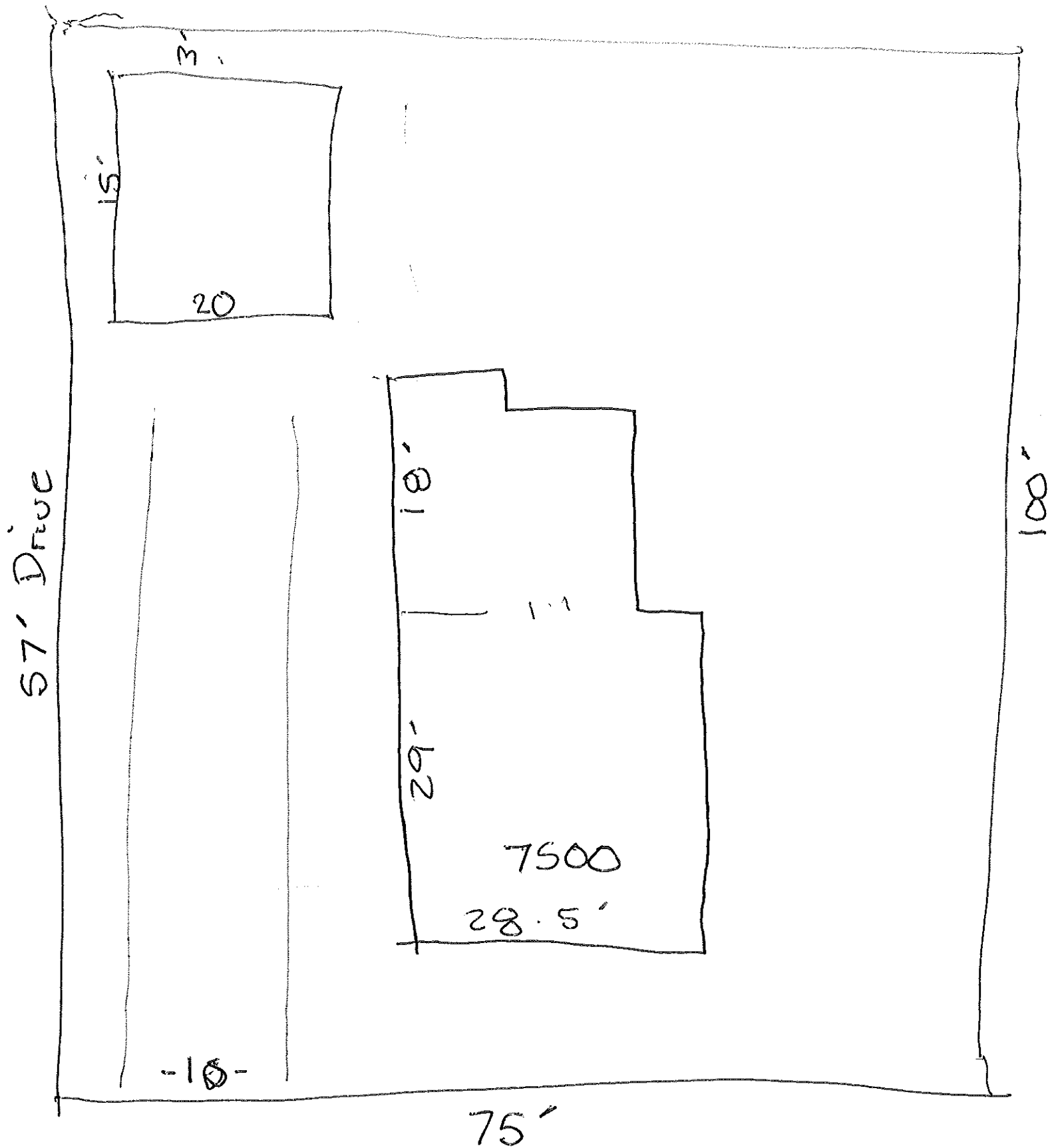
**Lot size is 7500**

**Home Gross Living Area 2563**

Thank you very much,

Lynn Rutter 

161 Clinton Street -



161 Clinton Street

# SKETCH ADDENDUM

File No. 12-7463

Case No.

5

Borrower Jeffrey A. Runge

Property Address 161 Clinton St.

City Portland

County

Cumberland

State

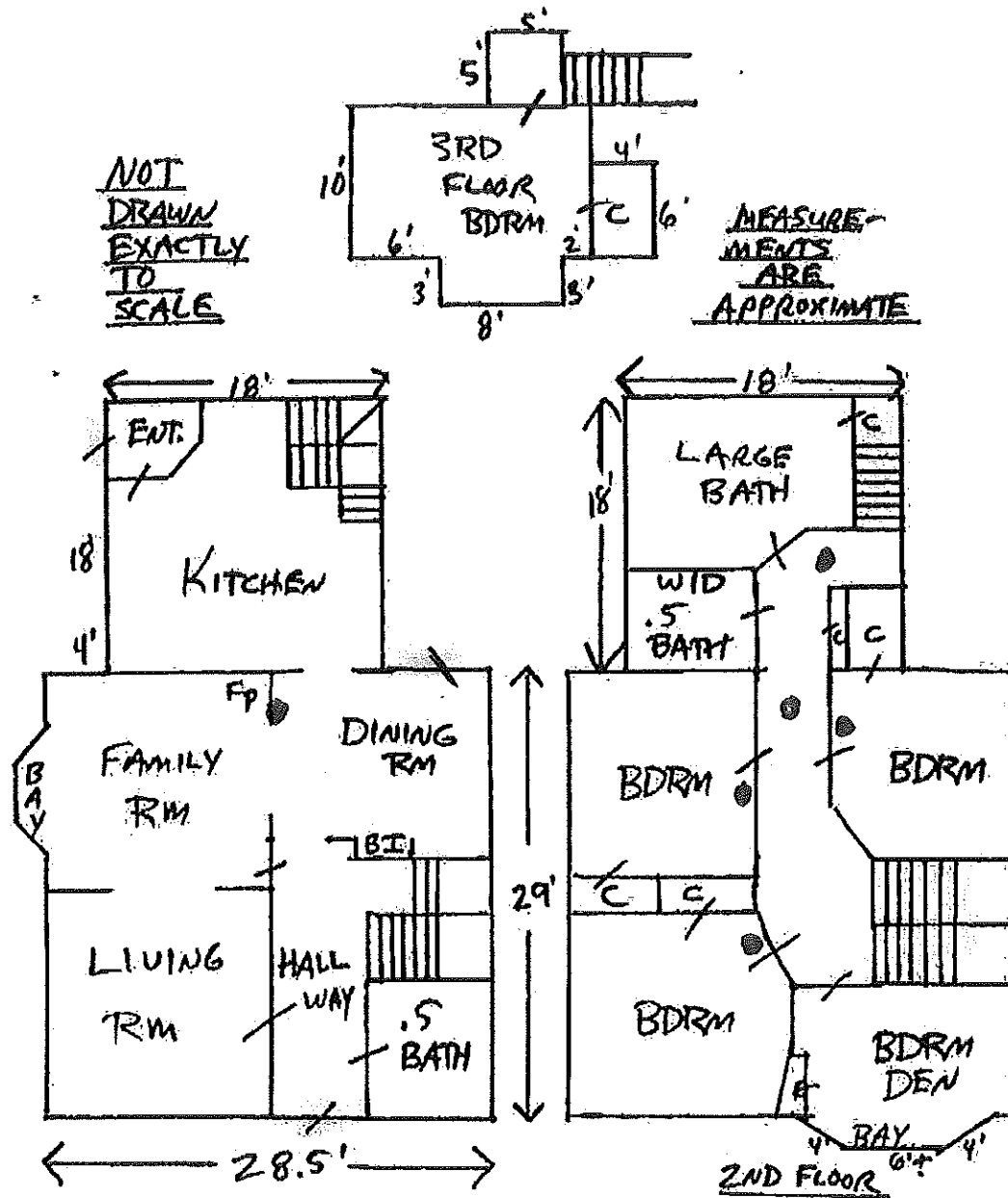
ME

Zip Code

04103

Lender/Client Northeast Bank

Address 500 Canal St, Lewiston Me., 04240-6594



- Area of Home occupation/daycare - 1st Floor
- Fire Alarm - Smoke Detector + Carbon monoxide - Hardwired Egress

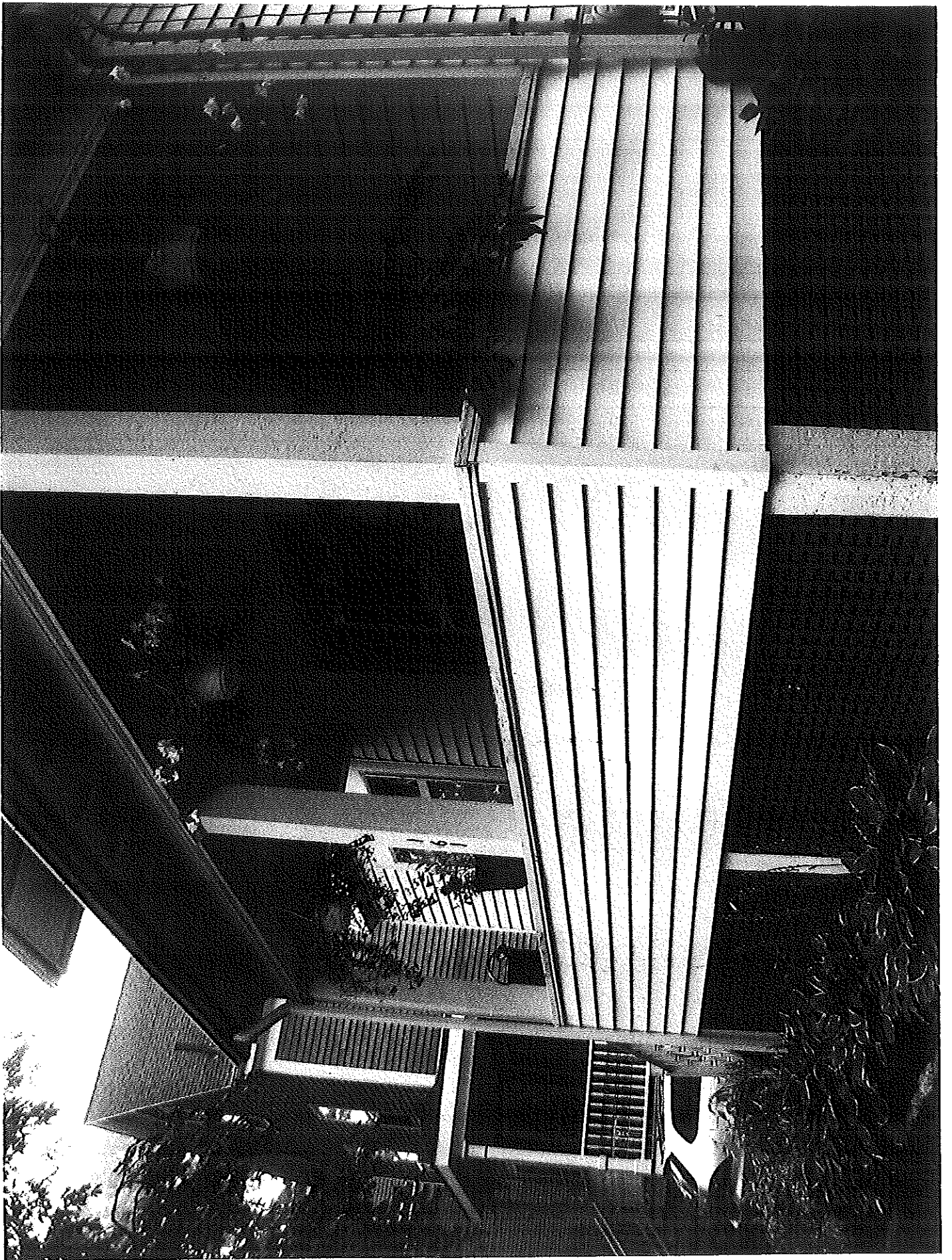


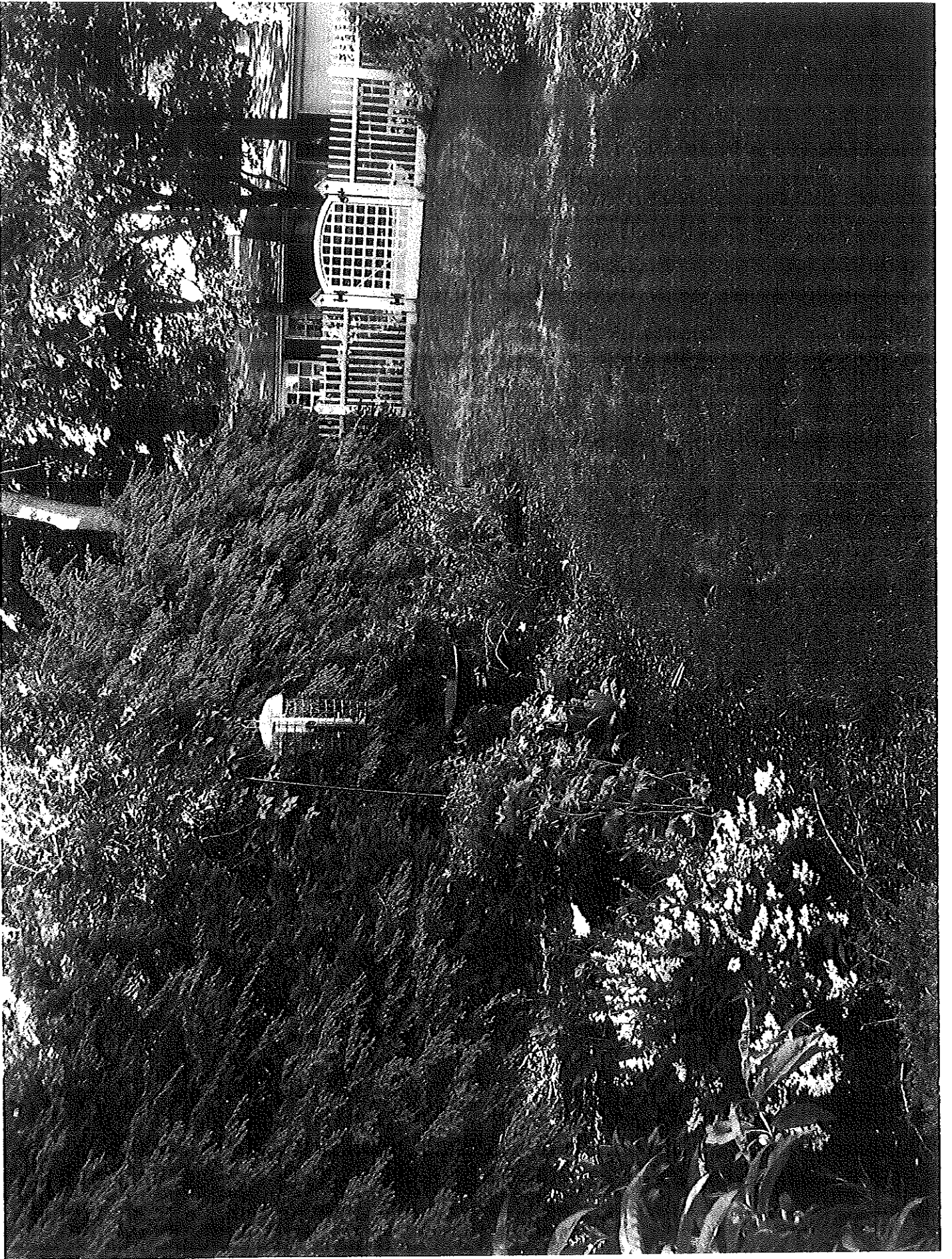
41-

Case No.

**Address** 500 Canal St, Lewiston Me., 04240-6594







**QUITCLAIM DEED**  
Maine Statutory Short Form

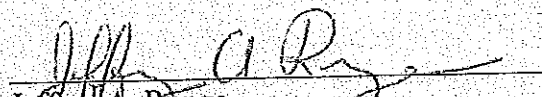
①

**KNOW ALL MEN BY THESE PRESENTS**, That **Jeffrey A. Runge** of Portland, Maine, for consideration paid, grant(s) to **Jeffrey A. Runge and Lynn Rutter** whose mailing address is 161 Cliniton Street, Portland, Maine 04103, as Joint Tenants with **QUITCLAIM COVENANTS**, the real property situated in **Portland**, County of **Cumberland** and State of **Maine** more particularly described in Exhibit A attached hereto and incorporated herein by reference.

**WITNESS** my hand(s) and seal(s) this 17th day of May, 2013.

MAINE REAL ESTATE TAX PAID

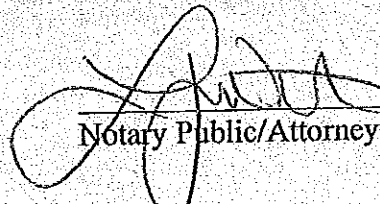
  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Jeffrey A. Runge

State of Maine  
County of Cumberland

May 17, 2013

Personally appeared before me the above named Jeffrey A. Runge and acknowledged the foregoing instrument to be his free act and deed.

  
\_\_\_\_\_  
Notary Public/Attorney at Law

LESLEY J. WENTWORTH  
Notary Public, Maine  
My Commission Expires November 12, 2013

File Number 13204

**EXHIBIT A**  
**(DEED)**

A certain lot or parcel of land, with the buildings thereon, situated on the northerly side of Clinton Street in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Commencing on the northerly side line of said Clinton Street, at the middle point in the southerly side line of lot numbered 11 on a plan recorded in the Cumberland County Registry of Deeds in Plan Book 6, Page 18 and which is distant about two hundred eighty five (285) feet easterly from the junction of the easterly side line of Stevens Avenue, with the northerly side line of Clinton Street as marked by monuments;

Thence easterly by the northerly side line of Clinton Street about fifty (50) feet to a point in the middle of the southerly side line of lot numbered 14;

Thence northerly by the middle line of said lot numbered 14 on a course at right angles or nearly so with Clinton Street about one hundred (100) feet to a point midway between Clinton Street and Hartley Street;

Thence westerly along the line midway between Hartley and Clinton Street, a distance of about fifty (50) feet to the middle point of the northerly side line of said lot numbered 11 on the plan above referred to;

Thence southerly along the middle line of said lot numbered 11 preserving a width of about fifty (50) feet a distance of about one hundred (100) feet to the point of beginning.

Also a certain tract or parcel of land situated in said Portland on the northerly side of Clinton Street on plan recorded as aforesaid, bounded and described as follows:

Commencing at a point on the northerly side of Clinton Street on plan recorded as aforesaid, bounded and described as follows;

Commencing at a point on the northerly side line of said Clinton Street about three hundred thirty five (335) feet distant from the corner made by Stevens Avenue and Clinton Street;

Doc# 28830 Sk#30666 Pg# 333

File No. 13204

Thence on Clinton Street twenty five (25) feet, more or less, to the corner of lot numbered 15 on said plan;

Thence by the side line of said lot numbered 15 one hundred (100) feet, more or less, to the rear line of said lot;

Thence westerly along the rear line of lot numbered 14 twenty five (25) feet, more or less, to the center of said lot no. 14;

Thence southerly one hundred (100) feet, more or less to the point of beginning.

Meaning and intending to convey that property conveyed to Jeffrey A. Runge by deed of Benjamin Shissler and Elizabeth Shissler dated November 24, 2008, and recorded in the Cumberland County Registry of Deeds in Book 26477, Page 67.

Reviewed and Approved:

Received  
Recorded Register of Deeds  
Nov 23, 2013 09:43:09A  
Cumberland County  
Pamela E. Lovley



DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK

# CITY OF PORTLAND BUILDING PERMIT



This is to certify that

RUNGE JEFFREY A & LYNN RUTTER

Located at

161 CLINTON ST

PERMIT ID: 2013-01426

ISSUE DATE: 08/12/2013

CBL: 135 C014001

has permission to **Change of Use for a Home occupation permit for childcare use for up to 6 children in a single family dwelling**

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the City of Portland regulating the construction, maintenance and use of the buildings and structures, and of the application on file in the department.

Notification of inspection and written permission procured before this building or part thereof is lathed or otherwise closed-in. 48 HOUR NOTICE IS REQUIRED.

A final inspection must be completed by owner before this building or part thereof is occupied. If a certificate of occupancy is required, it must be procured prior to occupancy.

N/A

Fire Official

/s/ Tammy Munson

Building Official

**THIS CARD MUST BE POSTED ON THE STREET SIDE OF THE PROPERTY  
THERE IS A PENALTY FOR REMOVING THIS CARD**

*Approved Property Use - Zoning*

Single Family Dwelling

*Building Inspections*

*Fire Department*

PERMIT ID: 2013-01426

Located at: 161 CLINTON ST

CBL: 135 C014001