

1. Zoning Board Of Appeals Agenda For 06-04-15

Documents: [06-04-15 AGENDA.PDF](#)

2. Practical Difficulty Variance Application

Documents: [7 CUSHMAN ST - PRACTICAL DIFFICULTY VARIANCE - 06-04-15.PDF](#)

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a Public Hearing on Thursday, June 4, 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. Old Business:

A. Practical Difficulty Variance Appeal:

7 Cushman Street, Jodie Lapchick & Mark Barnette, owners, Tax Map 056, Block B, Lot 020, R-6 Residential Zone: The applicants would like to extend their existing deck four feet, three inches by ten feet and enclose the area underneath for storage. The appellants are requesting a variance from sections 14-139(a)(4)(b) & (c) to reduce the required rear setback from twenty feet to five inches and to reduce the required side setback from ten feet to two inches. The appellants are also requesting a variance to increase the maximum allowable amount of lot coverage. Under section 14-139(a)(5) the maximum allowable lot coverage is 50 percent. The existing lot coverage is at 65 percent. With the addition the lot coverage would increase to 68.7 percent. Representing the appeal are the owners.

2. Adjournment



nbarba@barba
wheelock.com

CITY OF PORTLAND
ZONING BOARD OF APPEALS

Practical Difficulty Variance Application

Applicant Information:

Jodie Lapchick + Mark Barnette

NAME

N/A

BUSINESS NAME

7 Cushman Street, Portland, ME 04102

ADDRESS

207-329-4454

TELEPHONE #

Owner

APPLICANT'S RIGHT, TITLE OR INTEREST
(eg; owner, purchaser, etc)

R-6, Historic

CURRENT ZONING DESIGNATION

EXISTING USE OF PROPERTY:

Residence

Subject Property Information

7 Cushman Street

PROPERTY ADDRESS

056 B020

CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (if different)

NAME

ADDRESS

14-139(a)(4) 1(a)(5)

PRACTICAL DIFFICULTY VARIANCE
(FROM SECTION 14)

RECEIVED

MAY 13 2015

Dept. of Building Inspections
City of Portland Maine

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

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

SIGNATURE OF APPLICANT

DATE

April, 30, 2015

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Gregory A. Mitchell
Acting Planning Dept. Director

Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the Zoning Board of Appeals (ZBA) may grant a variance from the dimensional standards of this article when strict application of the provisions of the Ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

"Practical Difficulty" variance standards pursuant to Portland City Code §14-473(c)(3):

1. The need for the variance is from dimensional standards of the Land Use Zoning Ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied _____ NOT Satisfied _____ (deny the appeal)

Reason and supporting facts:

The existing lot is a "postage stamp" size with the historic house set having zero setback on the rear (north) and right (east) side property lines. The west side property line is 14 feet from the face of the house. There is no room for expansion within the current setbacks.

2. Strict application of the provisions of the ordinance would create a ***Practical Difficulty***, meaning it would both (1) preclude a use of the property which is permitted in the zone in which it is located, and also (2) would result in significant economic injury to the applicant. (*"Significant Economic Injury" means the value of the property, if the variance was denied, would be substantially lower than its value if the variance were granted.*) To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

Satisfied _____ NOT Satisfied _____ (deny the appeal)

Reason and supporting facts:

Practical difficulty: the value of the property is compromised by its lack of enclosed storage space for snow blower, bicycles and outdoor gear. The present solution is to store these items in the driveway and cover with an unsightly blue tarp. This degrades the property value and the surrounding properties. Access to the basement is circuitous, unsafe, and not suitable for a snow blower or wheeled objects. The Owner intends to continue to live at their residence for many years, hoping to "age in place;" because of age and back problems the owners need to purchase a snowblower because they are physically unable to shovel, but cannot store one. Despite locking bikes and outdoor equipment the Owner has experienced theft of their bicycles and other items due to the lack of secure storage.

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Gregory A. Mitchell
Acting Planning Dept. Director

3. 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 _____ (deny the appeal)

Reason and supporting facts:

Cushman Street and the surrounding Western Promenade Historic District properties are mostly larger, this house being one of the smallest in the West End. There is no room within setbacks in any direction for expansion.

4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use, or fair market value, of abutting properties.

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

The granting of the variance will improve the character of the neighborhood and the value of the abutting property. The neighbors are very supportive of this request for a variance. See the attached letter of support.

5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

The condition for which the Owner is seeking a variance for this property has existed for many years, but a solution has never been sought.

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Gregory A. Mitchell
Acting Planning Dept. Director

6. No other feasible alternative is available to the applicant, except the variance.

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

The basement would be the only "practical" solution, yet access is inaccessible.

There is no place for outside gear storage and anything left outside is prone to theft.

7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

Natural environment concerns. N/A. The entire property is hardscaped or roof so surface run off will not be changed. The one foot wide grassy esplanade against the house will not be affected.

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. §435, nor within a shoreland zone or flood hazard zone.

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

N/A

20 May 2015

Zoning Board of Appeals
City of Portland
389 Congress Street
Portland, Maine 04101

RECEIVED

MAY 22 2015

Dept. of Building Inspections
City of Portland Maine

Re: Practical Difficulty Variance Application
Jodie Lapchick Residence
7 Cushman Street, Portland, Maine

To Whom It May Concern:

On behalf of the Owner, Jodie Lapchick, I am writing to request a Practical Difficulty Variance for her property at 7 Cushman Street, located in the Western Promenade Historic District.

As one of the smallest houses in the West End, there is no room within setbacks in any direction for expansion. Practical difficulty: the value of the property is compromised by its lack of enclosed storage space for snow blower, bicycles and outdoor gear. The present solution is to store these items in the driveway and cover with an unsightly blue tarp. This degrades the property value and the surrounding properties. Access to the basement is circuitous, unsafe, and not suitable for a snow blower or wheeled objects.

The Owner intends to continue to live at their residence for many years, hoping to "age in place;" because of age and back problems can no longer shovel by hand. Despite locking bikes and outdoor equipment the Owner has experienced theft of their bicycles and other items due to the lack of secure storage. The owners need to purchase a snow blower because they are physically unable to shovel, but cannot store one.

We are requesting setback reductions for both the side property line and the rear property line. The addition would be located 2 inches from the side property line and 5 inches from the rear. The current lot coverage is 781 SF on a 1,198 SF lot, or 65% and - with this small addition- the lot coverage would be increased by 42 SF to 68.7%.

The granting of the variance will improve the character of the neighborhood and the value of the abutting property. The neighbors are very supportive of this request for a variance. See the attached letter of support from the immediate adjacent neighbors.

I look forward to presenting the project to you at the Zoning Board of Appeals and to any questions you may have.

Sincerely,

Nancy L. Barba, AIA, LEED AP
Licensed Architect Maine, NH, NCARB

Cc: Jodie Lapchick

NOT FOR
CONSTRUCTION

Jodie Lapchick
7 Cushman St.
Portland, ME 04102

LAPCHICK RESIDENCE

7 CUSHMAN ST
PORTLAND, ME

TITLE

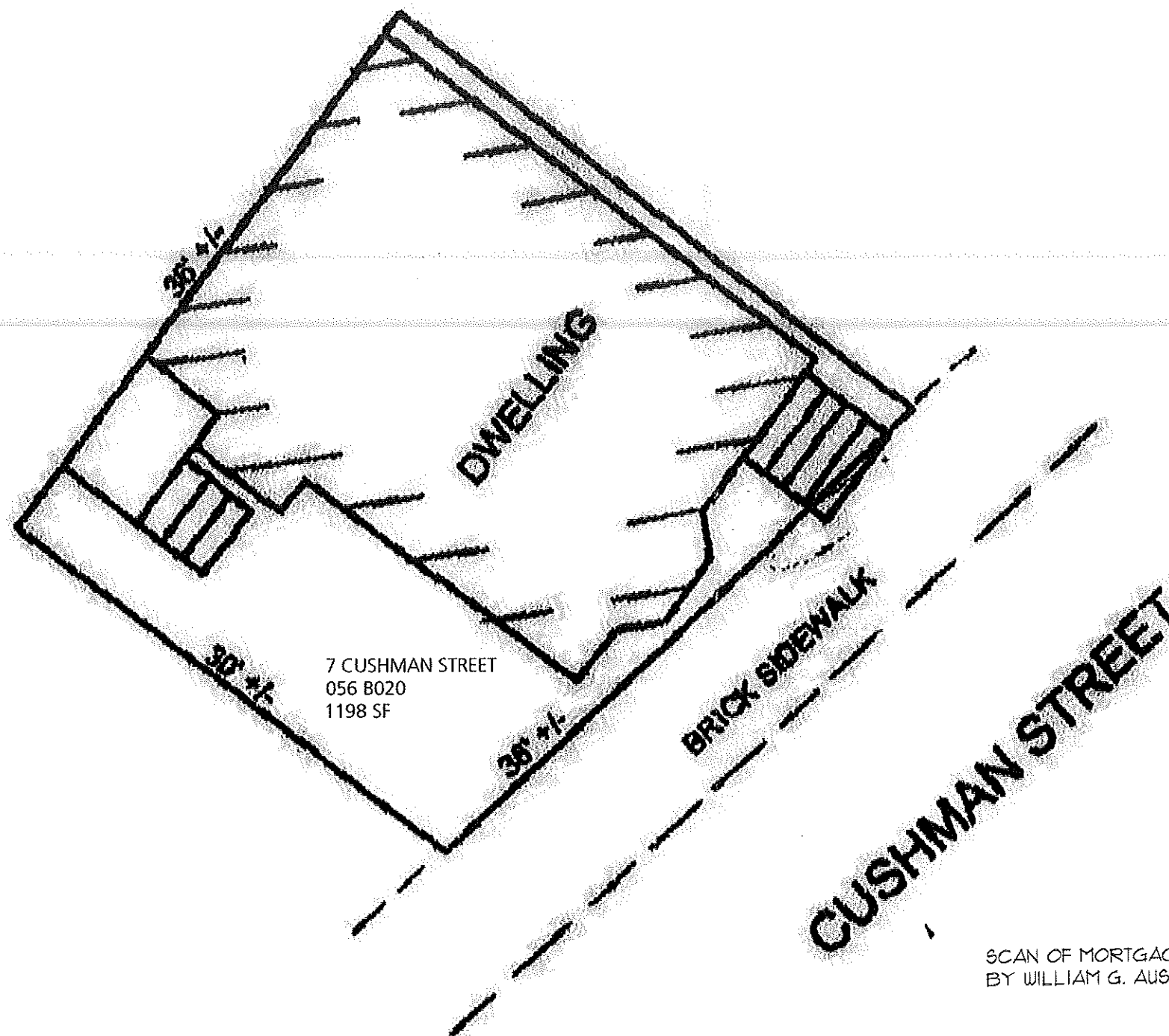
SITE PLAN, EXISTING
CONDITIONS

DATE

05 / 20 / 2015

DRAWING #

AX001



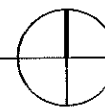
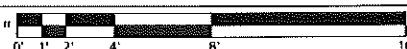
SCAN OF MORTGAGE LAM INSPECTION PLAN
BY WILLIAM G. AUSTIN, DATED APRIL 14, 2003

LOT COVERAGE: 60%
LOT: 1198 SF
MAX LOT COVERAGE: 118.8 SF

HOUSE: 684 SF
FRONT PORCH: 35 SF
SIDE PORCH: 62 SF
TOTAL EXISTING: 781 SF

PROPOSED: 42 SF
TOTAL PROPOSED: 823 SF - 68.7% LOT COVERAG

1 SITE PLAN, MORTGAGE LOAN INSPECTION PLAN
AX001 SCALE: 1/8"=1'-0"



MINIMUM YARD DIMENSIONS

- FRONT YARD:
PRINCIPAL OR ACCESSORY STRUCTURES: 10 FEET.
- REAR YARD:
DETACHED ACCESSORY STRUCTURES WITH A GROUND COVERAGE OF 144 SQUARE FEET OR LESS: 5 FEET
- SIDE YARD:
DETACHED ACCESSORY STRUCTURES WITH GROUND COVERAGE OF 144 SQUARE FEET OR LESS: 5 FEET.

MAXIMUM LOT COVERAGE:

- 60 PERCENT FOR LOTS WHICH CONTAIN FEWER THAN 20 DWELLING UNITS.
- MINIMUM LOT WIDTH:
- FORTY (40) FEET.
- MAXIMUM STRUCTURE HEIGHT:
- ACCESSORY DETACHED STRUCTURE: EIGHTEEN (18) FEET.
- OPEN SPACE RATIO:
- 20 PERCENT FOR THOSE LOTS WHICH CONTAIN FEWER THAN TWENTY (20) DWELLING UNITS

BARBÂ+WHEELLOCK

ARCHITECTURE
PRESERVATION
DESIGN

500 CONGRESS STREET
PORTLAND, MAINE 04101
207.772.2722

NOT FOR
CONSTRUCTION

Jodie Lapchick
7 Cushman St.
Portland, ME 04102

LAPCHICK
RESIDENCE

7 CUSHMAN ST
PORTLAND, ME

TITLE

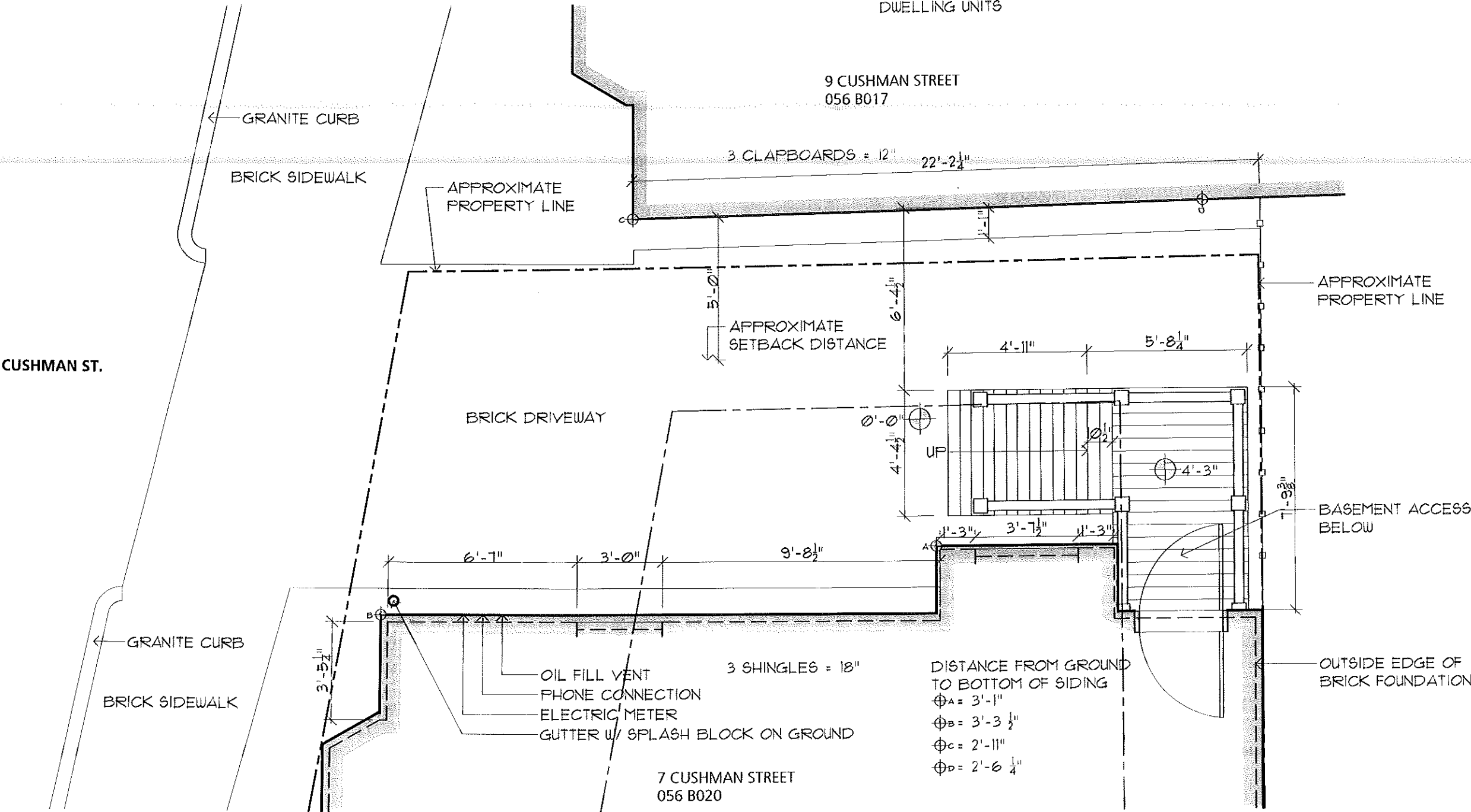
EXISTING DRIVEWAY
PLAN

DATE

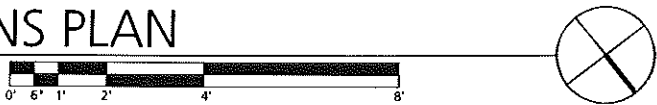
05 / 20 / 2015

DRAWING #

AX100



1 EXISTING CONDITIONS PLAN
AX100 SCALE: 1/4"=1'-0"



NOT FOR
CONSTRUCTION

Jodie Lapchick
7 Cushman St.
Portland, ME 04102

LAPCHICK
RESIDENCE

7 CUSHMAN ST
PORTLAND, ME

TITLE

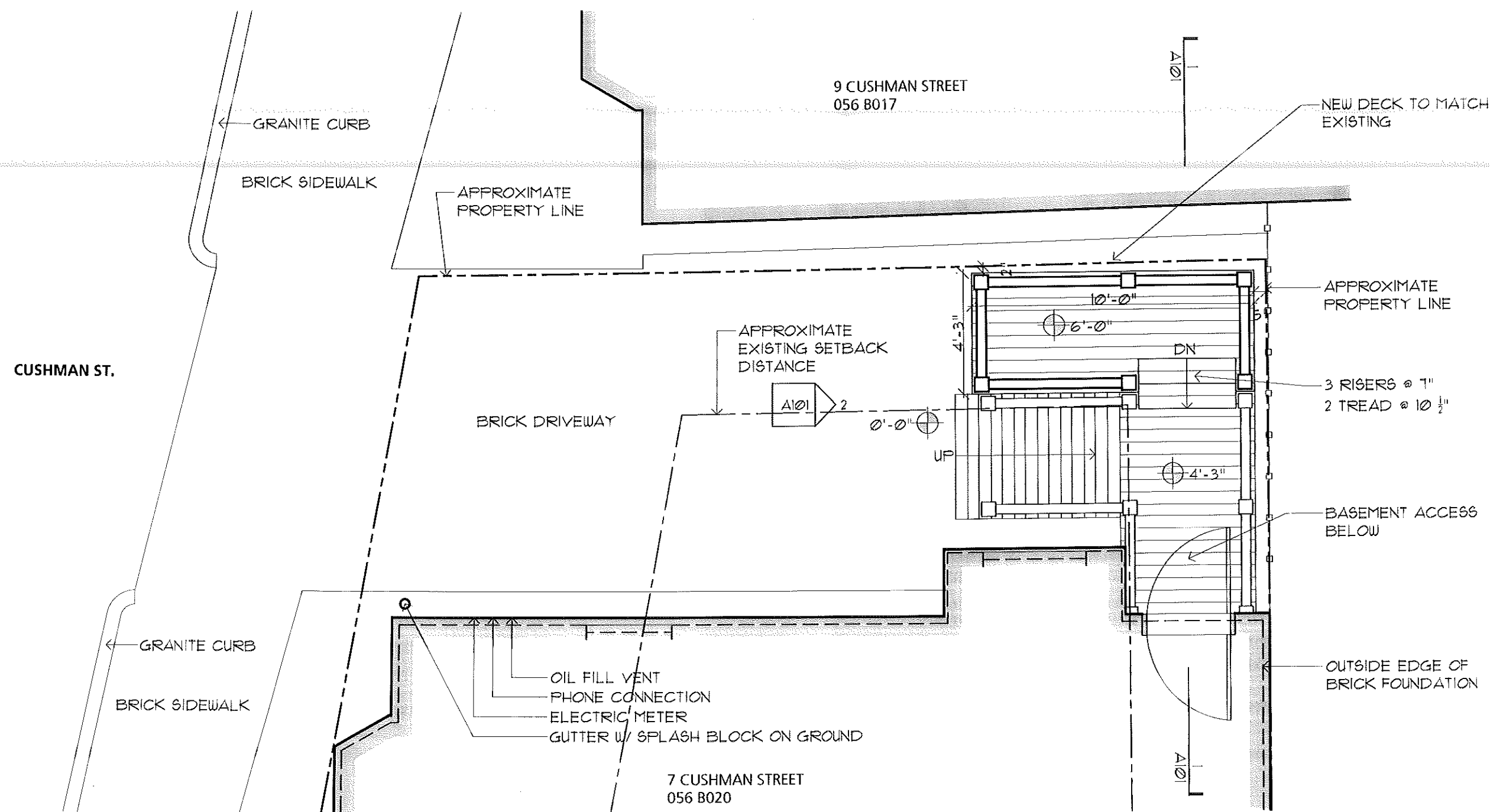
NEW DRIVEWAY PLAN

DATE _____

05 / 20 / 2015

DRAWING #

A100



1	PROPOSED PLAN
A100	SCALE: 1/4"=1'-0"



NOT FOR
CONSTRUCTION

Jodie Lapchick
7 Cushman St.
Portland, ME 04102

LAPCHICK RESIDENCE

7 CUSHMAN ST
PORTLAND, ME

TITLE

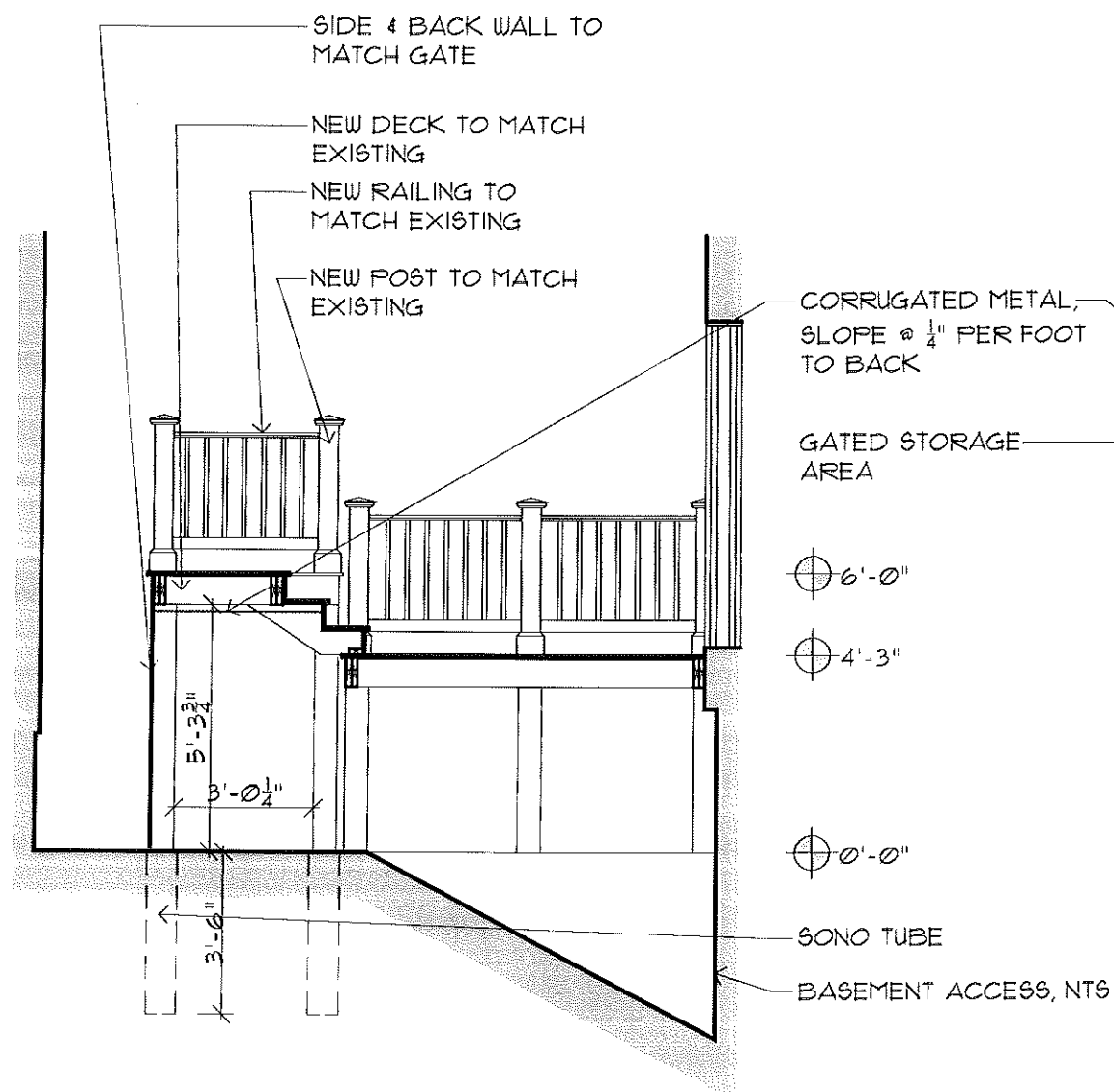
PROPOSED SECTION

DATE

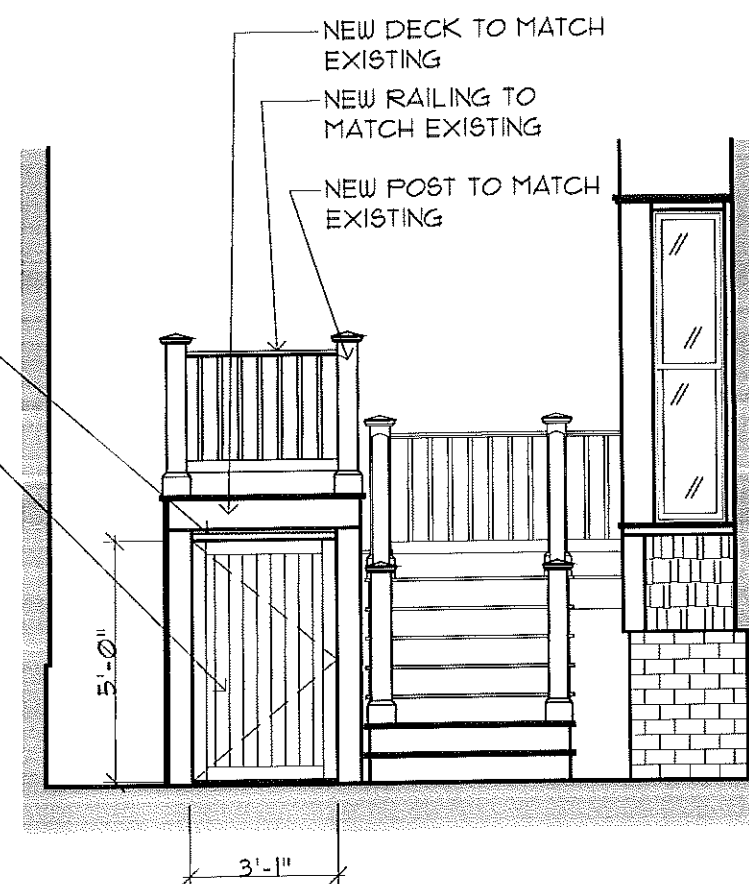
05 / 20 / 2015

DRAWING #

A101



1 PROPOSED SECTION
A101 SCALE: 1/4"=1'-0"



2 PROPOSED ELEVATION
A101 SCALE: 1/4"=1'-0"



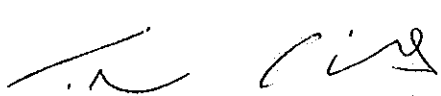
RELEASE DEED

JODIE LAPCHICK, an individual residing in Portland, Maine, with a mailing address of 7 Cushman Street, Portland, ME 04102, for consideration paid, RELEASES to **JODIE LAPCHICK AND MARK BARNETTE**, individuals residing in Portland, County of Cumberland, State of Maine, and both with a mailing address of 7 Cushman Street, Portland, ME 04102, as joint tenants and with full rights of survivorship, a certain lot or parcel of land with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, as described on Exhibit A.

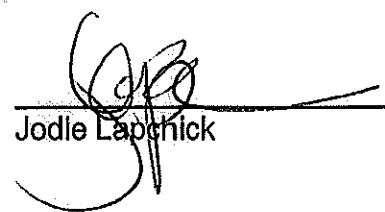
Meaning and intending to describe and release and hereby releasing all my right, title and interest in said premises, which was conveyed to me by deed of Colleen McGeoghegan which deed was dated April 25, 2003 and recorded in the Cumberland County Registry of Deeds in Book 19278, Page 294.

The grantor conveys said premises subject to a Mortgage in the original principal amount of \$189,980.00, given by the grantor to NE Moves Mortgage Corporation on April 25, 2003, which mortgage is recorded in the Cumberland County Registry of Deeds in Book 19278, Page 296, and subject to a Mortgage in the original principal amount of \$40,000.00 given by the grantor to Banknorth, N.A. on December 14, 2004, which mortgage is recorded in the Cumberland County Registry of Deeds in Book 22229, Page 333.

Witness my hand and seal this 24 day of October, 2008.



Witness

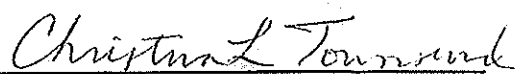


Jodie Lapchick

STATE OF MAINE
CUMBERLAND, ss

Date: October 24, 2008

Personally appeared before me the above named Jodie Lapchick who affirmed the foregoing instrument to be her free act and deed.



Notary Public/Attorney at Law
Print Name: Christina L. Townsend

CHRISTINA L. TOWNSEND
Notary Public, Maine
My Commission Expires September 21 2012

SEAL

Exhibit A

Jodie Lapchick to Jodie Lapchick and Mark Barnette

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, being Lot No. 7 on said street and bounded and described as follows: Beginning 36 feet from the westerly line of Lot purchased by George Gilman of William Kilby; thence westerly to the west line 36 feet bounded by land now or formerly of Sweetair on the north; thence southerly at right angles 29½ feet to Cushman Street; thence easterly 36 feet on Cushman Street; thence northerly to the first mentioned bound, containing 1,000 square feet more or less. For a more particular description, reference may be had to the plan of Division A, Cushman's Estate, recorded in the Cumberland County Registry of Deeds in Plan Book 2, Page 21.

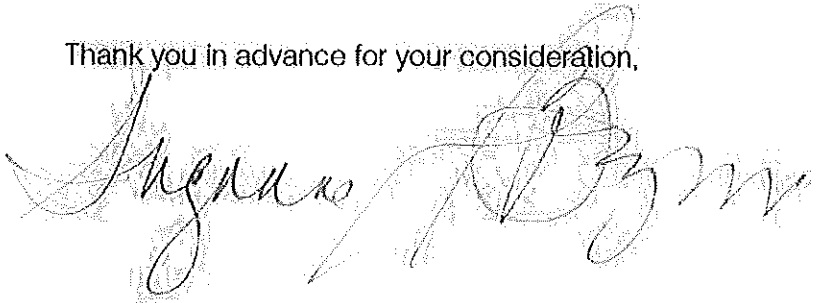
Received
Recorded Register of Deeds
Nov 06, 2008 09:13:59A
Cumberland County
Pamela E. Lovley

February 7, 2015

To Whom it May Concern,

We are submitting this letter to communicate our desire for the City of Portland to grant a Variance for Practical Difficulty to our abutting neighbors at 7 Cushman Street. We would like them to be able to build a small addition that extends all the way to our home at 9 Cushman Street to keep their bikes, scooters, and snow blower inside so the tarps they've been using will no longer be an eyesore for the neighborhood.

Thank you in advance for your consideration,

A handwritten signature in cursive script, appearing to read "Ed and Suzanne Bryan", written in dark ink.

Ed and Suzanne Bryan

9 Cushman Street

Portland ME 04102