

1. 07-13-17 - Agenda

Documents:

[07-13-17 AGENDA.PDF](#)

1.I. ZBA Application - 613 Washington Avenue

Documents:

[CONDITIONAL USE APPEAL - 613 WASHINGTON AVE.PDF](#)
[ZONING MAP - 613 WASHINGTON.PDF](#)

1.II. ZBA Application - 4 Russell Street

Documents:

[PRACTICAL DIFFICULTY - 4 RUSSELL ST.PDF](#)
[ZONING MAP - 4 RUSSELL ST.PDF](#)

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Kent Avery, Chair
Donna Katsiaficas, Secretary
Robert Bartels
Eric Larsson
Benjamin McCall
Joseph Zamboni

APPEAL AGENDA

The Board of Appeals will hold a Public Hearing on Thursday, July 13, 2017, at 6:30 p.m. in the City Council Chambers at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following appeals:

1. New Business:

- A. **Conditional Use Appeal:** 613 Washington Avenue, BK Properties, LLC, owner, Tax Map 428, Block L, Lot 022, R-5 Residential Zone: The applicant is seeking a Conditional Use Appeal under Section 14-118(a)(5) to gain approval for an existing third dwelling unit in its building. The current legal use of the building is a two-family. Representing the appeal is Shamayel Kargar of BK Properties, LLC.
- B. **Practical Difficulty Variance Appeal:** 4 Russell Street, New Day Farm, LLC, owner, Tax Map 54, Block D, Lot 001, R-6 Residential Zone: The applicant is seeking a Practical Difficulty Variance to reduce the minimum lot area from 2,000 square feet to 1,899 square feet, to increase the maximum lot coverage from 60% to 63.67%, and to reduce the minimum lot area per dwelling unit from 725 square feet to 633 square feet [all per Section 14-139(a)]. Representing the appeal is Richard N. Bryant, Esq.

2. Adjournment

Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP, Director
Planning & Urban Development Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND ZONING BOARD OF APPEALS

Conditional Use Appeal Application

Applicant Information:

NAME

BUSINESS NAME

BUSINESS ADDRESS

BUSINESS TELEPHONE & E-MAIL

APPLICANT'S RIGHT/TITLE/INTEREST

CURRENT ZONING DESIGNATION

EXISTING USE OF THE PROPERTY:

TYPE OF CONDITIONAL USE PROPOSED:

Subject Property Information:

PROPERTY ADDRESS

CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (If Different)

ADDRESS (If Different)

PHONE # AND E-MAIL

CONDITIONAL USE AUTHORIZED BY
SECTION 14- 118 (A)(5)

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.

Shamayel Kargar
SIGNATURE OF APPLICANT

6/10/2017
DATE

389 Congress Street * Portland Maine 04101-3509 * Phone: (207) 874-8703 * Fax: (207) 874-8716
<http://www.portlandmaine.gov/planning/buildinsp.asp> * E-Mail: buildinginspections@portlandmaine.gov

June 10, 2017

Zoning Board of Appeals

City of Portland

389 Congress St.

Portland, ME 04101-3509

Re: Conditional Use Appeal Application for 613-615 Washington Ave

To Whom It May Concern

You will find enclosed BK Properties, LLC's Conditional Use Appeal Application with supporting documentation. A complete pdf copy of this letter and the enclosed documents is contained on the enclosed CD-R. Shamayel Kargar, a member of BK Properties, LLC, will be hand delivering the application fee.

The purpose of this application is to allow BK Properties, LLC's property at 613-615 Washington Ave in Portland (hereafter the "Property") to be used as a three unit apartment as permitted by Section 14-118(a)(5) of the City Code of Ordinances. As to each of the conditions set forth in subsection 118 (a)(5), BK Properties, LLC states as follows

- (a) It seeks to convert the property to a three unit apartment building.
- (b) The units will not be sold as condominiums; they will be apartments for rent.
- (c) The apartments will be affordable and consistent with the GA City Guidelines rent
- (d) Each of the apartments in the building will be at least 1,200 square feet in area. The Creation of additional space will not involve removing any part of the existing dwelling units. The attic was unfinished for the third unit, no space has been taken from other units.
- (e) There will be no modifications to the exterior.
- (f) There will be sufficient parking for all three units.
- (g) There will be no open stairways or fire escapes above the ground floor.

Zoning Board of Appeals

June 10, 2017

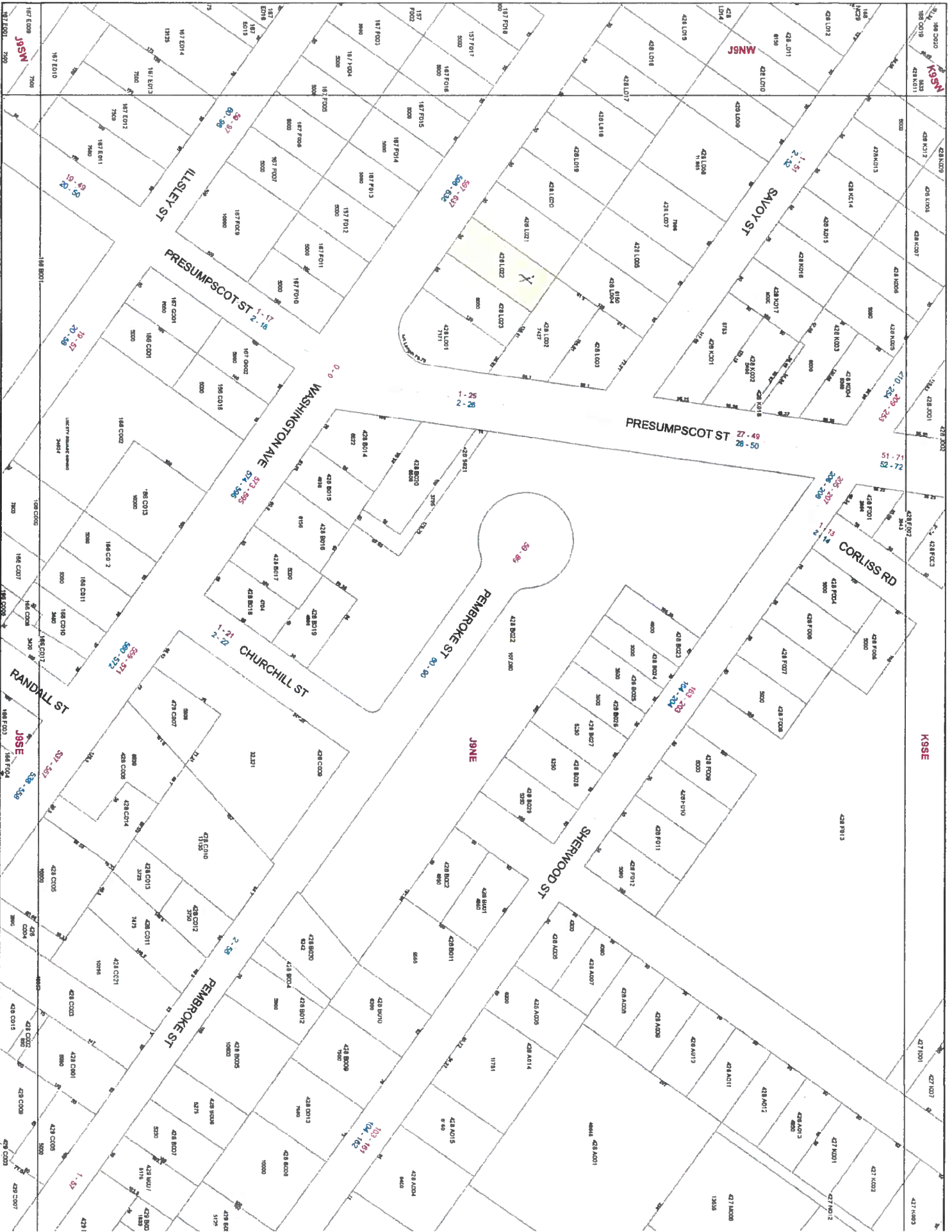
Page 2

(h) BK Properties, LLC will assure that the parking area is properly landscaped and that vehicles are screened from adjacent properties.

BK Properties, LLC is also mindful of the conditions for approval of a conditional use that set forth in Section 14-474(c)(2). BK Properties, LLC does not believe that the conversion of the Property to a three unit apartment will cause any violation of any of the conditions set forth in this subsection relating to increased traffic, unsanitary conditions etc. Moreover, the conversion of the Property will not be to a commercial use such that signs would be erected or deliveries made.

Thank you very much for your attention to this matter. Please contact me if you have any questions.

Sincerely,



QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, **Fannie Mae a/k/a Federal National Mortgage Association**, a federally chartered corporation having a mailing address of P.O. Box 650043, Dallas, TX 75265-0043, for consideration paid, and in full consideration of **Two Hundred Twenty Thousand And 00/100 (\$220,000.00) DOLLARS**, does hereby grant to **BK Properties, LLC**, a Maine Limited Liability Company, with a mailing address of P.O. Box 6419 Falmouth, ME 04106

WITH QUITCLAIM COVENANTS

That certain lot or parcel of land located in the City of Portland, the County of Cumberland, the State of Maine more particularly described as follows:

Two certain lots or parcels of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, on the northeasterly side of Washington Avenue and being Lots Numbered 115 and 116 as shown on Plan of Lunt Property recorded in the Cumberland County Registry of Deeds in Plan Book 10, Page 91.

For title see the Quitclaim Deed recorded in Book 31534 at Page 166 of the Cumberland County Registry of Deeds.

This conveyance does not constitute all or substantially all of the corporation's assets in the State of Maine.

GRANTEE HEREIN SHALL BE PROHIBITED FROM CONVEYING CAPTIONED PROPERTY FOR A SALES PRICE OF GREATER THAN \$264,000.00 FOR A PERIOD OF 3 MONTHS FROM THE RECORDING OF THIS DEED. GRANTEE SHALL ALSO BE PROHIBITED FROM ENCUMBERING SUBJECT PROPERTY WITH A SECURITY INTEREST IN THE PRICIPAL AMOUNT OF GREATER THAN \$264,000.00 FOR A PERIOD OF 3 MONTHS FROM THE RECORDING OF THIS DEED. THESE RESTRICTIONS SHALL RUN WITH THE LAND AND ARE NOT PERSONAL TO GRANTEE.

Property Address:
613-615 Washington Avenue
Portland, ME 04103

WITNESS my hand this 29th day of January, 2015.

Fannie Mae a/k/a Federal National Mortgage Association

**By: Shechtman Halperin Savage, LLP
its Attorney in fact***

By: Gini Spaziano

Gini Spaziano, Esq.
Its Partner

*For signatory authority see LPOA recorded at Book 31434, Page 278 of the Cumberland County Registry of Deeds.

STATE OF Rhode Island
COUNTY OF Providence

On January 29, 2015 before me, personally appeared Gini Spaziano, a Partner of Shechtman Halperin Savage, LLP, Attorney in Fact for Fannie Mae a/k/a Federal National Mortgage Association, known by me to be the party executing the foregoing instrument, and he/she acknowledged the said instrument by him/her executed to be his/her free act and deed individually and as attorney in fact on behalf of Fannie Mae a/k/a Federal National Mortgage Association.

I certify under PENALTY OF PERJURY under the laws of the State of Rhode Island that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature M. Liss K. Rinaldi

Print name M. Liss K. Rinaldi

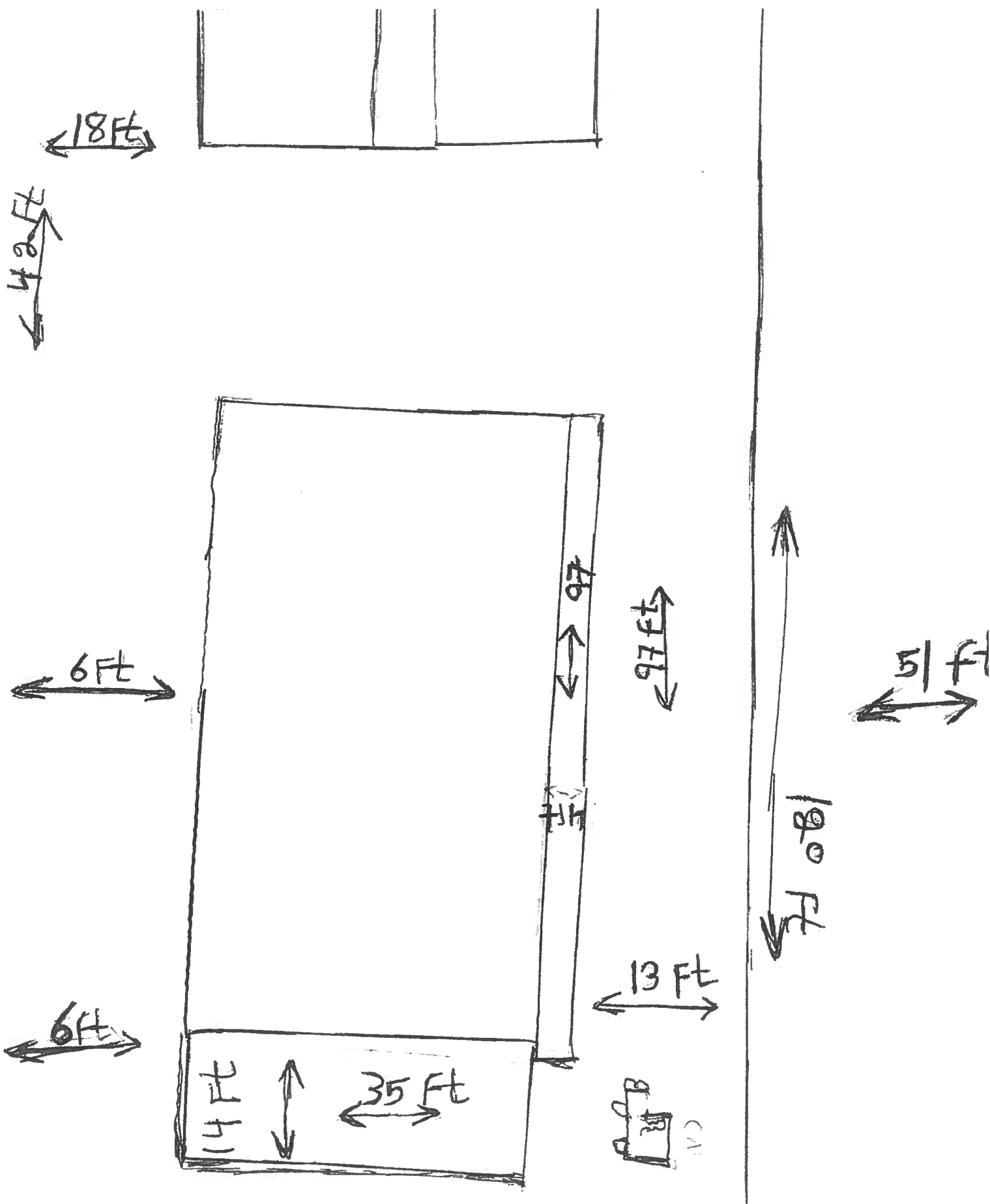
My commission expires: 6-4-18
(seal)

SEAL

Property Address:
613-615 Washington Avenue
Portland, ME 04103

Received
Recorded Register of Deeds
Feb 06, 2015 02:07:21P
Cumberland County
Nancy A. Lane

Page 2 of 2

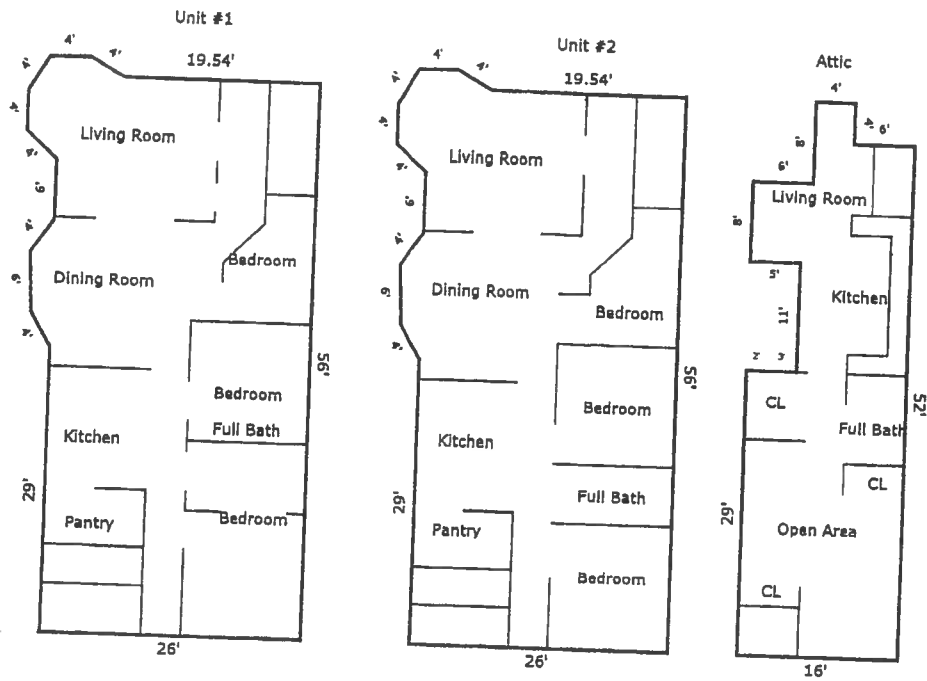


613 - 615 Washington

Building Sketch

Building Sketch

Client Katahdin Trust Company
 Property Address 613-615 Washington Ave
 City Portland County Cumberland State ME Zip Code 04103
 Client Katahdin Trust Company

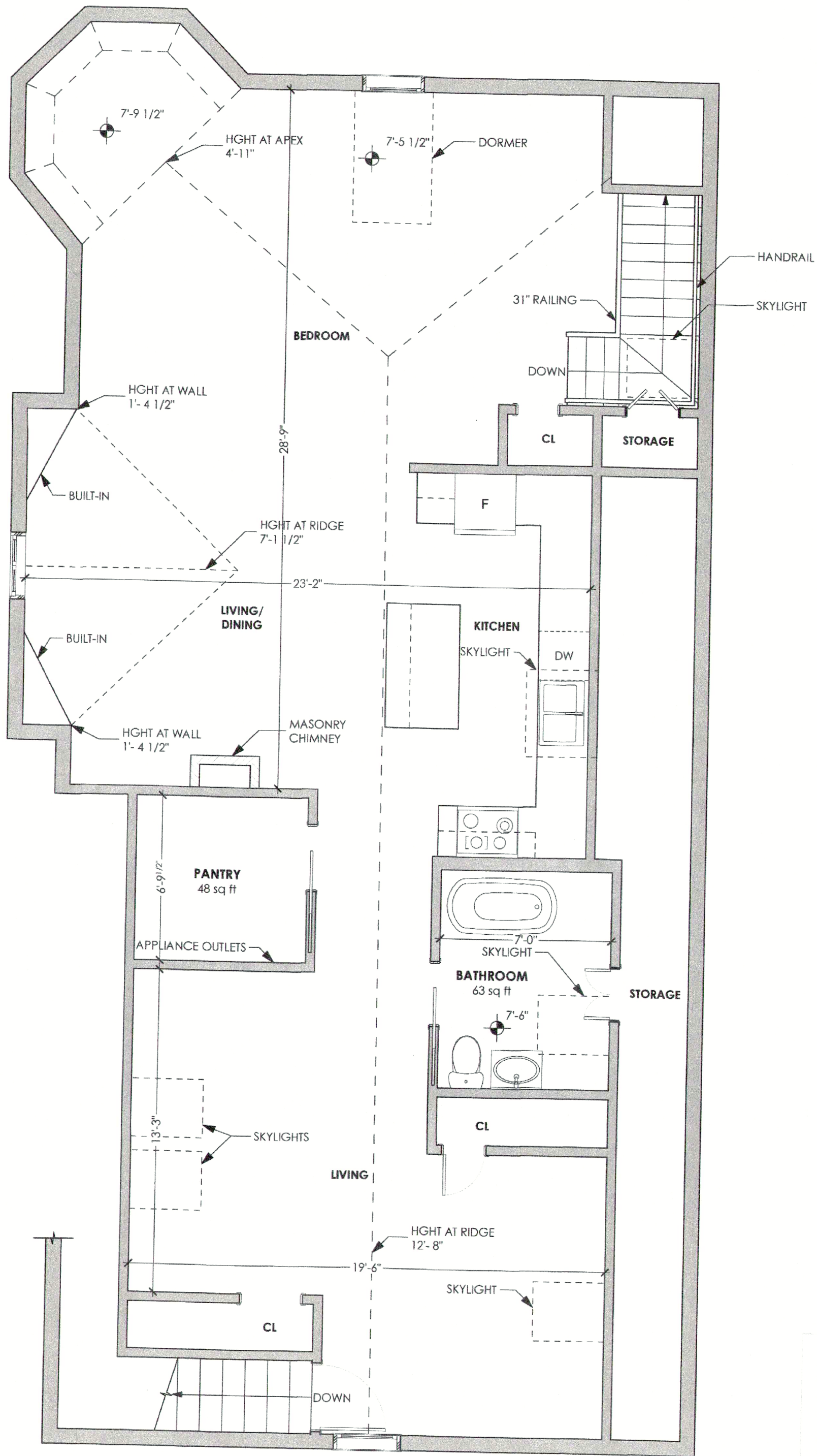


TOTAL Sketch by a la mode, inc.

Area Calculations Summary

Living Area	Area Calculation
First Floor	
Second Floor	1508.18 Sq ft
Third Floor	1508.18 Sq ft
Total Living Area (Rounded):	769 Sq ft
	3785 Sq ft

WALL
OVE



PRELIMINARY
NOT FOR CONSTRUCTION

2

613 WASHINGTON STREET- UNIT 3 EXISTING PLAN
SCALE: 1/4" = 1'-0"

UNIT 3: +/- 1,131 SQ FT

EXISTING PLANS

A-1.2

CALEB JOHNSON
ARCHITECTS + BUILDERS
265 MAIN STREET, SUITE 201 BIDDDEFORD, ME 04005
T: 207.283.8777 F: 207.283.8778 C: JAB.ME

SM:

PA:

CHANGES THIS ISSUE:

ISSUE NUMBER	CHANGE NUMBER	DESCRIPTION

SUBMISSIONS:

ISSUE	DATE	DESCRIPTION

CONSULTANTS:
Consultant 1 ID
Consultant 1 Company
Consultant 1 Address
Consultant 1 Person Name

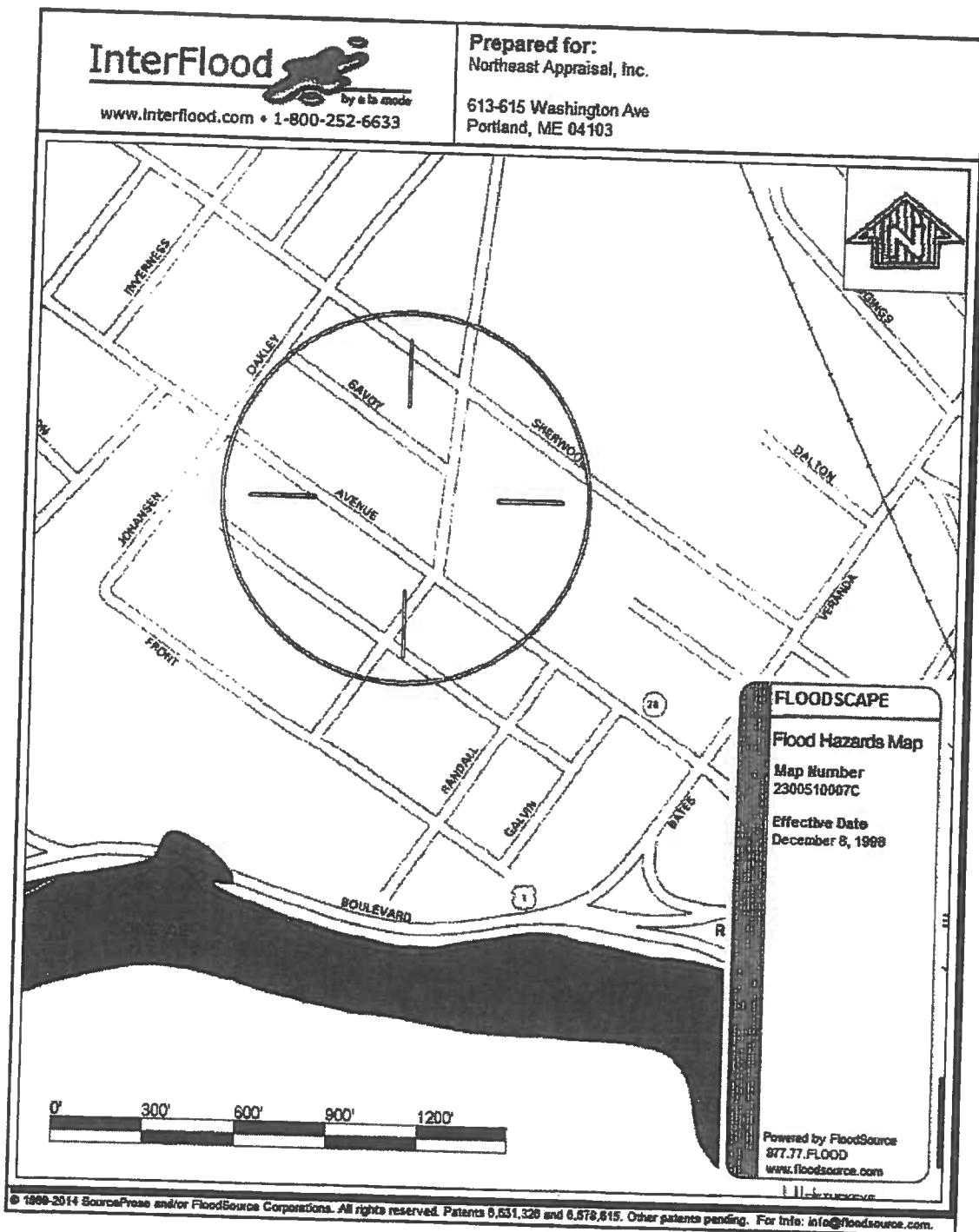
DRAFTSPERSON:
LEAH SCHAFER
DATE OF ISSUE
11/18/16
PROJECT STATUS:
M+D

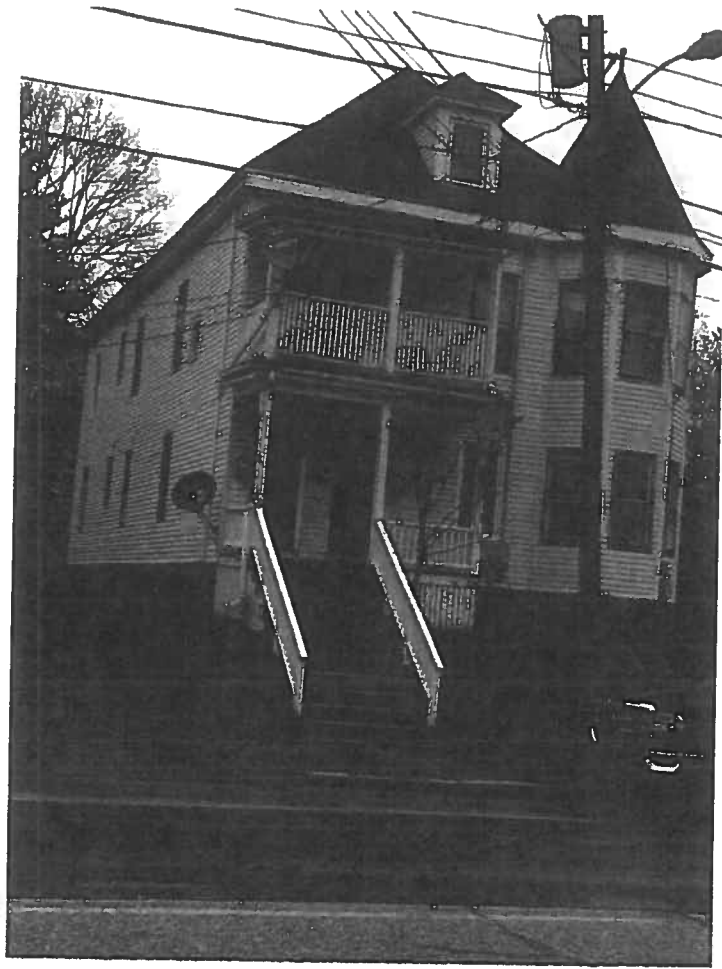
613 WASHINGTON ST

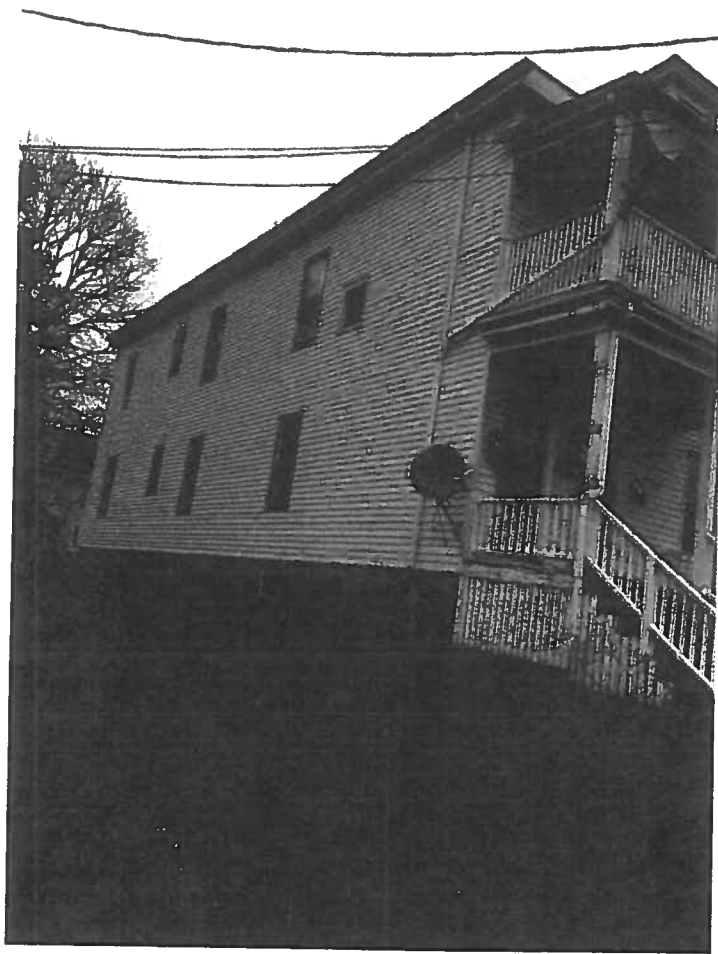
SHAMAYELL KAGAR
613 WASHINGTON STREET PORTLAND ME

Flood Map

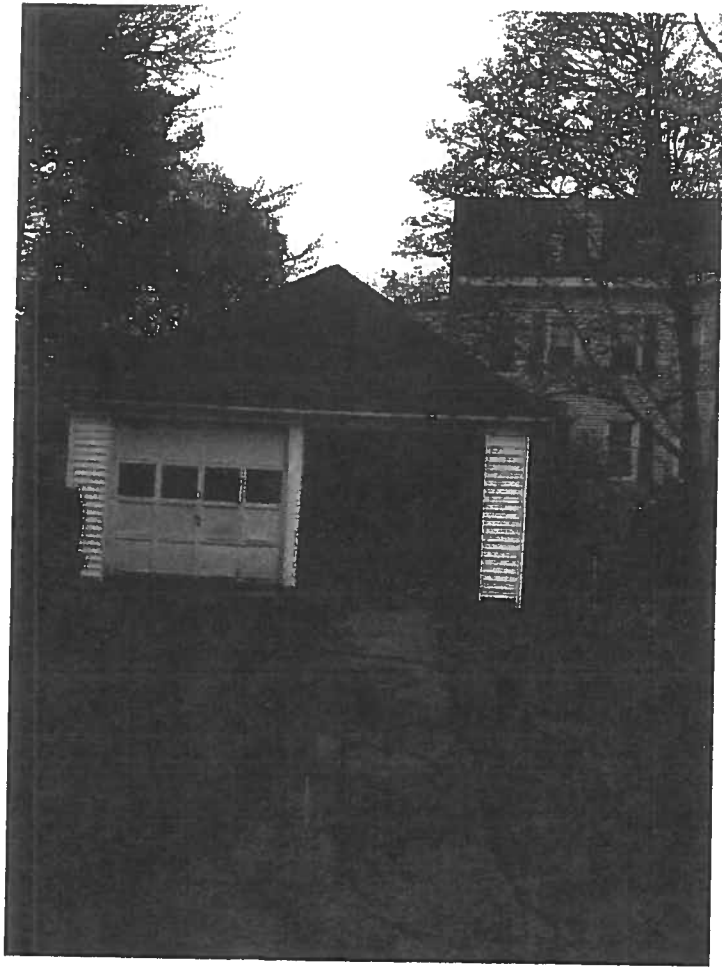
Client	Katahdin Trust Company			
Property Address	613-615 Washington Ave			
City	Portland	County	Cumberland	State ME Zip Code 04103
Client	Katahdin Trust Company			





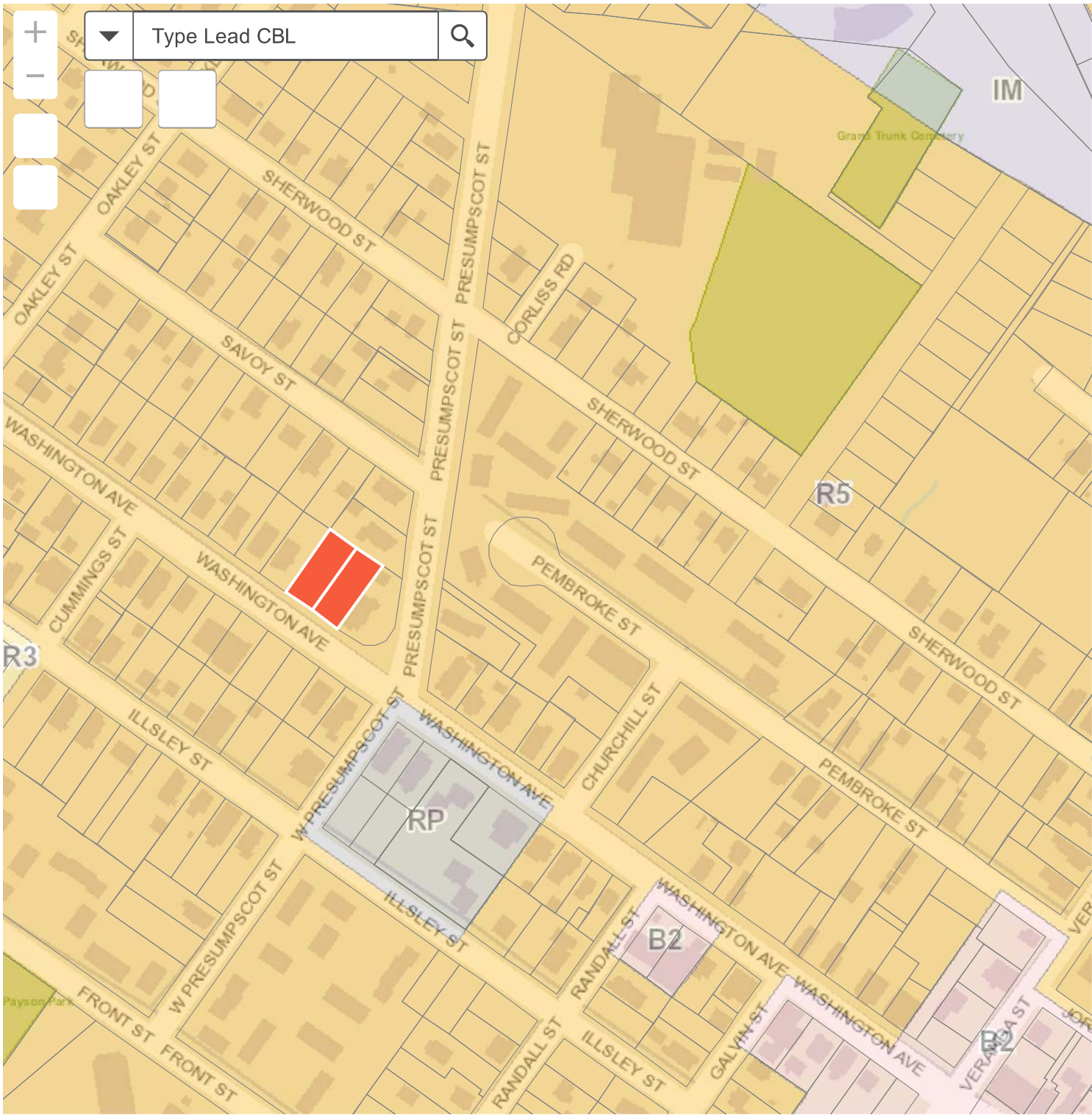








613 Washington Ave - Conditional Use Appeal



VAN MEER & BELANGER

A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

215 COMMERCIAL STREET, 4TH FLOOR
PORTLAND, MAINE 04101-4674

THOMAS J. VAN MEER
NORMAN R. BELANGER
RICHARD N. BRYANT
BETTS J. GORSKY

2 MAIN STREET, SUITE 18-217
BIDDEFORD, MAINE 04005-2069

PORTLAND: (207) 871-7500
BIDDEFORD: (207) 602-6234
FAX: (207) 871-7505
E-MAIL: INFO@VBLAWFIRM.COM

June 30, 2017

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

RE: 4 Russell Street - Map 54, Block D, Lot 1

Dear Sir or Madam:

Please accept the enclosed eleven (11) copies of the practical difficulty variance application on behalf of New Day Farm, LLC with respect to its property at 4 Russell Street (Map 54, Block D, Lot 1). Your office has received a pdf of the entire application.

New Day Farm would like to develop on its property a 31' x 39' three-story, three-unit residential building fronting on Hill Street, including parking with a first floor garage accessed off Russell Street. The property is a corner lot in the R-6 Zone that according to City records is a vacant lot that is unbuildable under current zoning. Under the dimensional requirements for residential uses in the R-6 Zone found in Ord. Section 14-139(a), the property does not meet the minimum lot size, and the proposed building does not meet the minimum lot size per dwelling unit and exceeds the maximum lot coverage.

Under Ord. Section 14-135, the purpose of the R-6 residential zone is to "*set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households. . . [and] In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.*"

Some details of the development will turn upon conditions imposed in the permitting process and economic considerations at the time of construction. New Day Farm's due diligence indicates that any anticipated return on estimated development costs is likely not justified without a three-unit residential building. (See the attached projections.) Assuming even a conservative estimate of \$225/square foot, the construction cost for a two-unit building would be \$848,025, but would yield an anticipated sale price, net of commission of only \$16,000. That projection assumes no cost overruns or delays on the project and no downturn in the residential market, any of which are substantial risks of that would incur potentially enormous losses. The projection also ignores New Day Farm's initial investment in the land itself, resulting in a nearly guaranteed net loss on such a development. Construction costs for a single

family house are substantially similar to that of a two-unit building, though the anticipated sale price would be substantially less. Obviously, no rational developer would invest that much capital in a single-family or two-unit residence for what would be at best a nominal return, if not a substantial loss, against the panoply of risks involved.

After a number of alternatives were explored to meet the tight constraints of the property dimensions, New Day Farm's architect has produced a viable design for a three-unit building with two large apartments on the upper floors and a garage and one efficiency apartment on the ground floor. The \$933,775 construction cost for a three-unit building is nearly \$86,000 higher than for a two-unit. But the anticipated return (again assuming no overruns or delays and excluding the initial land cost) is a reasonable \$165,000. Obviously, larger buildings and/or more units would entail greater returns, though would require greater (and additional) variances from the current zoning. In short, it appears that a three-unit project is the only practical and economically viable residential use of the property.

However, the threshold issue for any residential development is the Zoning Board of Appeals' grant of a practical difficulty variance with respect to minimum lot size, minimum lot area per dwelling unit, and maximum lot coverage in the R-6 Zone.

According to the Assessor's database, the lot currently has an area of 1,900 square feet. New Day Farm's boundary survey (attached) has determined the area is 1,899 square feet. The variances from R-6 Zone dimensional requirements being requested are:

- (i) a variance of 101 square feet of lot area below the required 2,000 s/f minimum residential lot size, to reflect the 1,899 square foot surveyed area of the lot;
- (ii) a variance of 70 square feet (3.67%) of lot coverage area above the 1,139 square feet (60%) maximum lot coverage, to reflect a 1,209 square foot building covering 63.67% of the 1,899 square foot lot; and
- (iii) a variance of 92 square feet of lot area per dwelling unit below the 725 square feet minimum lot area per dwelling unit required, to reflect the 633 square foot of lot area per dwelling unit for a three-unit building on the 1,899 square foot lot.

The proposed multi-unit residential use would be a permitted use under Ord. Section 14-136(a)(2). The attached conceptual plan shows a building that New Day Farm has determined is the minimum size that offers a reasonable likelihood of a return on the investment and which, according to Zoning Administration, otherwise meets or exceeds frontage, setback and other dimensional requirements of the R-6 Zone. A larger footprint with a greater lot coverage would provide a greater economic return. But New Day Farm has proposed the smallest building it could economically justify in order to avoid the need for variances of the 5' side yard and 10' rear yard setbacks in the R-6 Zone, and to minimize the current lot coverage and minimum lot area per dwelling unit variance requests.

It should be noted that the front setback (along the northerly sideline of Hill Street) is consistent with the 0' front setback of the adjacent multi-unit residential building at 4 Hill Street (Map 54, Block D, Lot 2) and all the other residential properties on that side of Hill Street (separated from the property only by Russell Street). According to the Assessor's records, the lot coverage of the building on 4 Hill Street is 67.92% . New Day Farm's requested lot coverage variance is for less than half that. Several other residential lots in the neighborhood also exceed the R-6 Zone's maximum lot coverage. According to the Assessors' records, 4 Hill Street is permitted for an 11-to-20 unit residential building on a 2,850 square foot lot, which reflects a lot size per dwelling unit figure of between 142 square feet and 259 square feet, between 466 and 583 square feet below the 725 square feet minimum. New Day Farm's requested minimum lot area to dwelling unit variance of 92 square feet is a tiny fraction of that. Similarly, the 4-unit condominium at 18 Hill Street and the 5-to-10 unit residential buildings at 17 and 19 Hill Street all have substantially smaller lot size per dwelling unit figures than the variance requested for this property.

A strict application of the dimensional standards in the R-6 Zone would prevent development of the property for a permitted multi-family residential use. The economic return from a multi-family residential use is greater than any potential investment return as an unbuildable vacant lot. Unless the variances are granted to allow the proposed multi-use residential development, the value of the property as a vacant lot (currently assessed at \$52,400) will remain substantially lower than what it would be assessed at as a completed multi-unit residential building. In short, New Day Farm would suffer significant economic injury were it not able to develop the property as proposed.

The property meets the standards for practical difficulty variances in Ord. Section 14-473 (c)(3) as follows:

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

The size of the lot which gives rise to the need for the requested variances is unique to this property and unrelated to the size of other parcels in the neighborhood or any other general condition of the neighborhood.

2. 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.

Virtually the entire block on which the property rests, as with the adjacent Hill Street block across Russell Street, is occupied with multi-family, multi-story residential buildings, many of which appear grandfathered with respect to minimum lot size, maximum lot coverage and minimum lot area per dwelling unit. The neighborhood is a densely populated residential enclave within the Maine Medical Center complex. Across the street from the Hill Street frontage of the property is a multi-story medical building. Residential development of this small undeveloped lot would further the express purpose of the R-6 zone and could not conceivably

change the character of the neighborhood nor have any unreasonably detrimental effect on the existing use or value of any abutting properties.

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

Our title search in the Cumberland County Registry of Deeds reveals that the property has had the same boundaries and legal description since at least 1927, well before the City's 1957 adoption of the Ordinance. Neither New Day Farm nor any prior owner has taken steps to create an undersized lot, and the high development costs dictating the minimum building size and multi-unit nature of the development to yield a reasonable return are purely the result of market forces.

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

The development of the property for commercial use or other less intensive non-residential permitted use in the R-6 Zone is simply not economically viable because of the property's small footprint. A practical difficulty variance with regard to minimum lot size, maximum lot coverage and minimum lot area per dwelling unit for a multi-family residential use is the only feasible development alternative.

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

The property is currently a small vacant lot within a densely developed urban environment, with a road network and utility infrastructure serving the neighborhood already in place. Multi-family residential development made possible by granting the requested variances will have no noticeable adverse effect upon the natural environment.

6. 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, as defined in this article.

The property is located upon the shoulder of the Western Prom and is not located within any State-defined or City-defined shoreland area, shoreland zone or flood hazard zone.

Finally, should the Board grant these variances as requested, New Day Farm would ask that pursuant to Ord. Section 14-147(e) the Board provide for up to two years for the variances to remain valid. This request is made because it remains an unfortunate fact of life that the process for obtaining development permits in the City today, even for such a relatively small project as is proposed for this property, is proving to be extraordinarily long because of the crowded dockets for public hearings and unusual burdens upon municipal staff within the various relevant departments.

Zoning Board of Appeals
June 30, 2017
Page 5

I look forward, along with the principals of New Day Farm, LLC, Jeffrey Rosenblatt and Debra Byers, to addressing the Board at your July 13, 2017 public meeting.

Yours truly,

A handwritten signature in black ink, appearing to read "Richard N. Bryant". The signature is stylized with a large, sweeping initial "R" and a trailing flourish.

Richard N. Bryant

Enclosures

cc: New Day Farm, LLC
David Lloyd, Archetype Architects

4 RUSSELL STREET - ENCLOSURE LIST

Practical Difficulty Variance Application

\$100 Check for Application Fee

Deed into New Day Farm LLC (CCRD Bk 32044, Pg 36)

Copy of Tax Map Showing Lot (Map 54, Block D, Lot 1)

Survey of Existing Lot

Photo of Existing Lot

Conceptual Site Plan / Floor Plan of Proposed Building

Projected Construction Cost and Return

Owner Authorization

Portland, Maine



Yes. Life's good here.

Michael A. Russell, MS, Director
Permitting and Inspections Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND
ZONING BOARD OF APPEALS
Practical Difficulty Variance Application

Applicant Information:

New Day Farm, LLC

NAME

c/o Richard N. Bryant, Van Meer & Belanger

ADDRESS

215 Commercial St., Portland, ME 04101

207 871-7500 rbryant@vblawfirm.com

PHONE # & E-MAIL

Owner

APPLICANT'S RIGHT/TITLE/INTEREST
(EG; owner, purchaser, etc)

R-6

CURRENT ZONING DESIGNATION

Subject Property Information:

4 Russell Street

PROPERTY ADDRESS

Map 54, Block D, Lot 1

CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (if different)

ADDRESS

PHONE # & E-MAIL

PRACTICAL DIFFICULTY VARIANCE
FROM SECTION 14- 139(a)

EXISTING USE OF PROPERTY:

Parking Lot

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.

NEW DAY FARM, LLC

SIGNATURE OF APPLICANT

Richard N. Bryant, Authorized Agent

DATE

5/31/17

The following words have the meanings set forth below:

1. **Dimensional Standards**: Those provisions of the article which relate to lot area, lot coverage, frontage and setback requirements
2. **Practical Difficulty**: A case where strict application of the dimensional standards of the Ordinance to the property for which a variance is sought, would BOTH preclude a use of the property which is permitted in the zone in which it is located AND also result in significant economic injury to the applicant.
3. **Significant Economic Injury**: The value of the property, if the variance were denied, would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that the denial of the variance would mean the practical loss of all beneficial use of the land.

A Practical Difficulty Variance may not be used to grant relief from the provisions of Section 14-449 (Land Use Standards) to increase either volume or floor area, nor to permit the location of a structure, including, but not limited to, single-component manufactured homes, to be situated on a lot in a way which is contrary to the provisions of this article.

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:

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:

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:

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:

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:

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

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

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:

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:

Russell Street Project Projection:

Construction costs at @ \$225/sq. ft.	Sale price	Minus commission	Net profit
<u>Three Units as proposed</u>			
Unit 1 390 ft^2	\$245,000	.04	
Unit 2 1209ft^2	\$425,000	.04	
Unit 3 1460ft^2	\$475,000	.04	
Total gross SF (including garage) 4159ft^2			
\$933,775.00	\$1,145,000.00	\$1,099,000.00	\$165,000.00
<u>Two Units (minus efficiency unit)</u>			
Total gross SF (including garage) 3,769ft^2			
\$848,025.00	\$900,000.00	\$864,000.00	\$16,000.00

QUITCLAIM DEED WITHOUT COVENANT
(Maine Statutory Short Form)

DR. JEFFREY ROSENBLATT ("Grantor"), FOR CONSIDERATION PAID, grants to **NEW DAY FARM, LLC**, a Maine limited liability company having a mailing address of 11 McQuillian's Hill Drive, Gorham, Maine 04038 ("Grantee"), certain real property located in the City of Portland, County of Cumberland, State of Maine, and more particularly described on Exhibit A attached hereto and made a part hereof by reference.

Meaning and intending to convey the same premises conveyed by Deed from 66 Bramhall Realty LLC to 119 Gannett Drive Associates, LLC dated March 21, 2012 and recorded in the Cumberland County Registry of Deeds in Book 29480, Page 232.

WITNESS my hand and seal this 26th day of January, 2015.



Witness



Dr. Jeffrey Rosenblatt

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

January 26, 2015

PERSONALLY APPEARED the above-named Dr. Jeffrey Rosenblatt and acknowledged the foregoing instrument to be his free act and deed.

Before me,



Notary Public/Attorney-at-Law
Name: *Richard N. Bryant, Esq.*
My Commission Expires:

EXHIBIT A

A certain lot or parcel of land situated at the intersection of Hill Street and Russell Street located in the City of Portland, County of Cumberland and State of Maine and more particularly described as follows:

Beginning at the intersection of the Southwesterly sideline of Hill Street and the Southeasterly sideline of Russell Street;

Thence S 36° 00' 00" E along said Hill Street 38.00 feet to land now or formerly of Elizabeth F. Sheriff;

Thence S 55° 38' 00" W along said Sheriff land 50.00 feet to land now or formerly of Martin J. Joyce et al.;

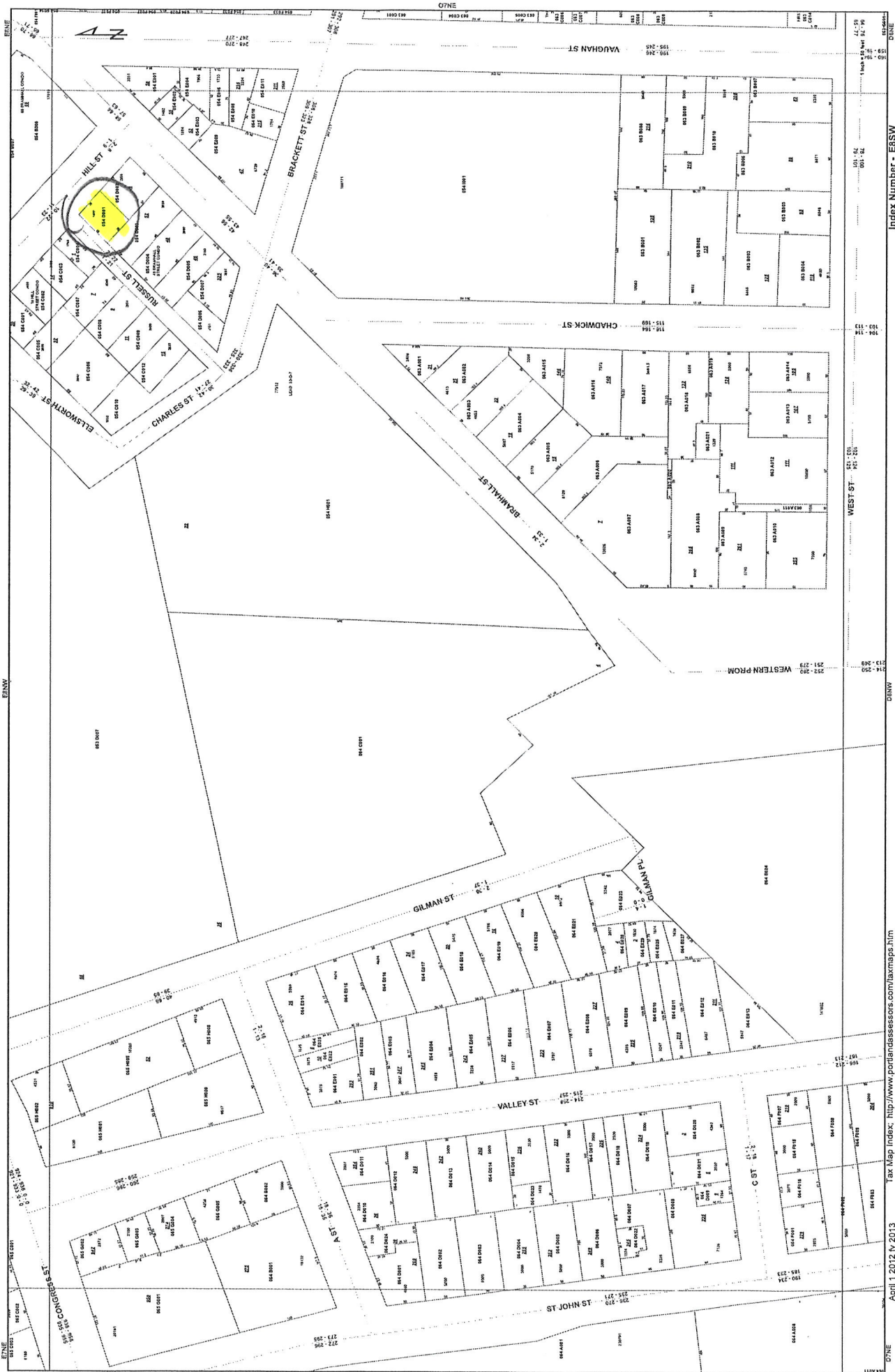
Thence N 36° 00' 00" W along said Joyce land 38.00 feet to said Southeasterly sideline of Russell Street;

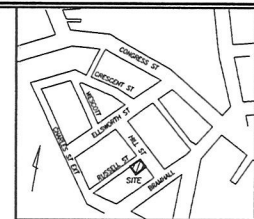
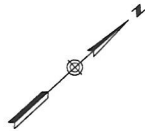
Thence N 55° 38' 00" E along said sideline of Russell Street 50.00 feet to the point of beginning, containing 1900 square feet and being delineated on a plan entitled "Plan of Land in Portland, Maine for Maine Cardiology Assoc." by Owen Haskell, Inc.

Bearings are magnetic based upon the year 1850 ±.

Received
Recorded Register of Deeds
Jan 23, 2015 03:00:59P
Cumberland County
Nancy A. Lane

4 Russell St.

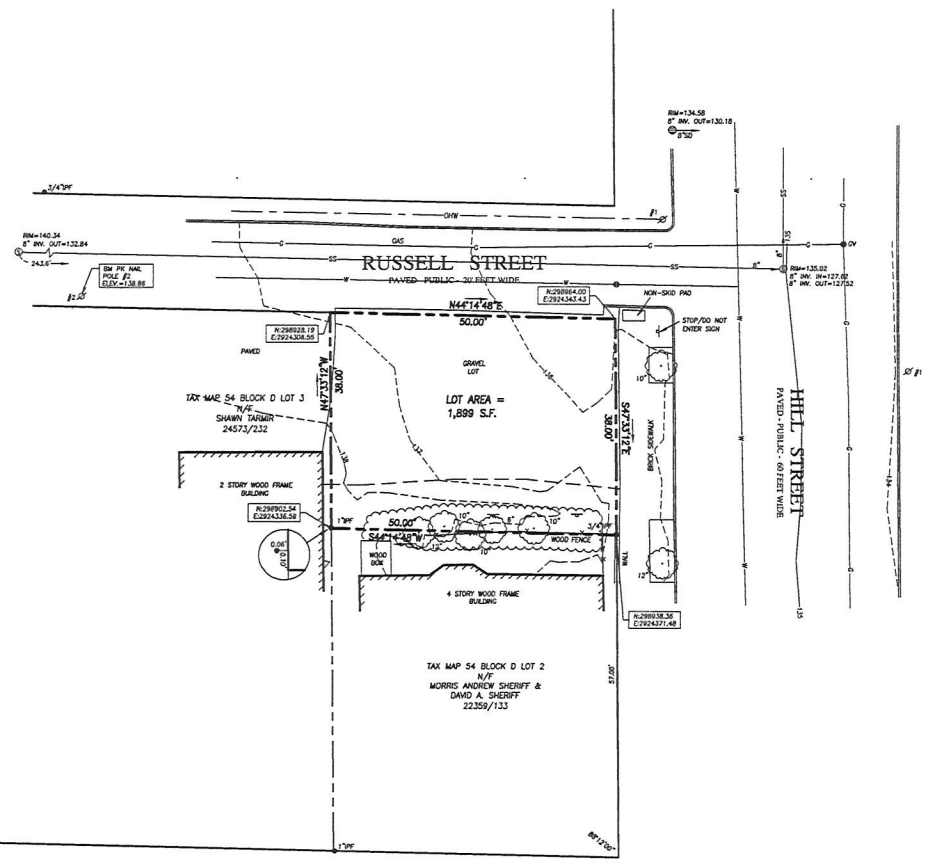




LOCATION MAP
N.T.S.

LEGEND

- IRON PIPE OR ROD FOUND
- MONUMENT FOUND
- UTILITY POLE
- MANHOLE
- SIGN
- CATCH BASIN
- GAS VALVE
- WATER VALVE OR SHUTOFF
- LIGHT POLE
- DECIDUOUS TREE
- FENCE
- CURB
- OVERHEAD WIRES
- WATER LINE
- GAS LINE
- STORM DRAIN
- SANITARY SEWER
- 1' CONTOUR
- N/A
- NOW OR FORMERLY
- DEED BOOK AND PAGE



BRAMHALL STREET
PAVED - PUBLIC

UTILITY NOTE

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. CALL 1-888-OCSEAK AT LEAST THREE BUSINESS DAYS BEFORE PERFORMING ANY CONSTRUCTION. DUE TO OSHA CONFINED SPACE REQUIREMENTS, ALL INVERTS AND PIPE SIZES MUST BE VERIFIED PRIOR TO ANY CONSTRUCTION.

PLAN REFERENCES

- "CONDOMINIUM PLAN, RUSSELL STREET FLATS CONDOMINIUM, 11 RUSSELL STREET, PORTLAND, MAINE MADE FOR RECORD OWNER MICHAEL J. FRIEDLAND" APRIL 15, 2014 BY OWEN HASKELL, INC.
- "PLAN OF LAND IN PORTLAND, MAINE FOR MAINE CARDIOLOGY ASSOC." DATED SEPTEMBER 9, 1980 BY OWEN HASKELL, INC.
- CITY OF PORTLAND STREET BLUE SHEETS.

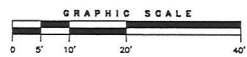
GENERAL NOTES

- OWNER OF RECORD: NEW DAY FARM, LLC
TAX MAP 54 BLOCK D LOT 1
C.C.R.D. BOOK 32044 PAGE 38
- BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM MAINE WEST ZONE 18, CITY POINTS 1714-26-1582 & 1724-26-1248 HELD.
- ELEVATIONS BASED ON CITY DATUM. CITY BENCHMARK: 3' O/S MONUMENT AT THE NORTH EAST CORNER OF MULLEN AND CLUMBERLAND STREET ELEVATION = 74.48 LBS36 PAGE 48.
- THE PROPERTY IS LOCATED IN THE CITY OF PORTLAND R6 ZONE.

CERTIFICATE

OWEN HASKELL, INC. HEREBY CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSEE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

DATE _____ JOHN W. SWAN, PLS NO. 1030



REV. 11-6-7-16 | ADJUST ELEVATIONS

BOUNDARY & TOPOGRAPHIC SURVEY
AT
4 RUSSELL STREET, PORTLAND, MAINE
MADE FOR
NEW DAY FARM, LLC
158 SHERIDAN STREET, UNIT 3A, PORTLAND, MAINE

OWEN HASKELL, INC.
PROFESSIONAL LAND SURVEYORS
390 U.S. ROUTE ONE, FALMOUTH, ME 04105 (207) 774-0434

Drawn By: JS	Date: JUNE 1, 2016	Job No. 2016-1389
Trace By: JWS	Scale: 1" = 10'	Drawn No. 1
Check By: JWS		
Book No. 1145		

Google Maps 4 Russell St

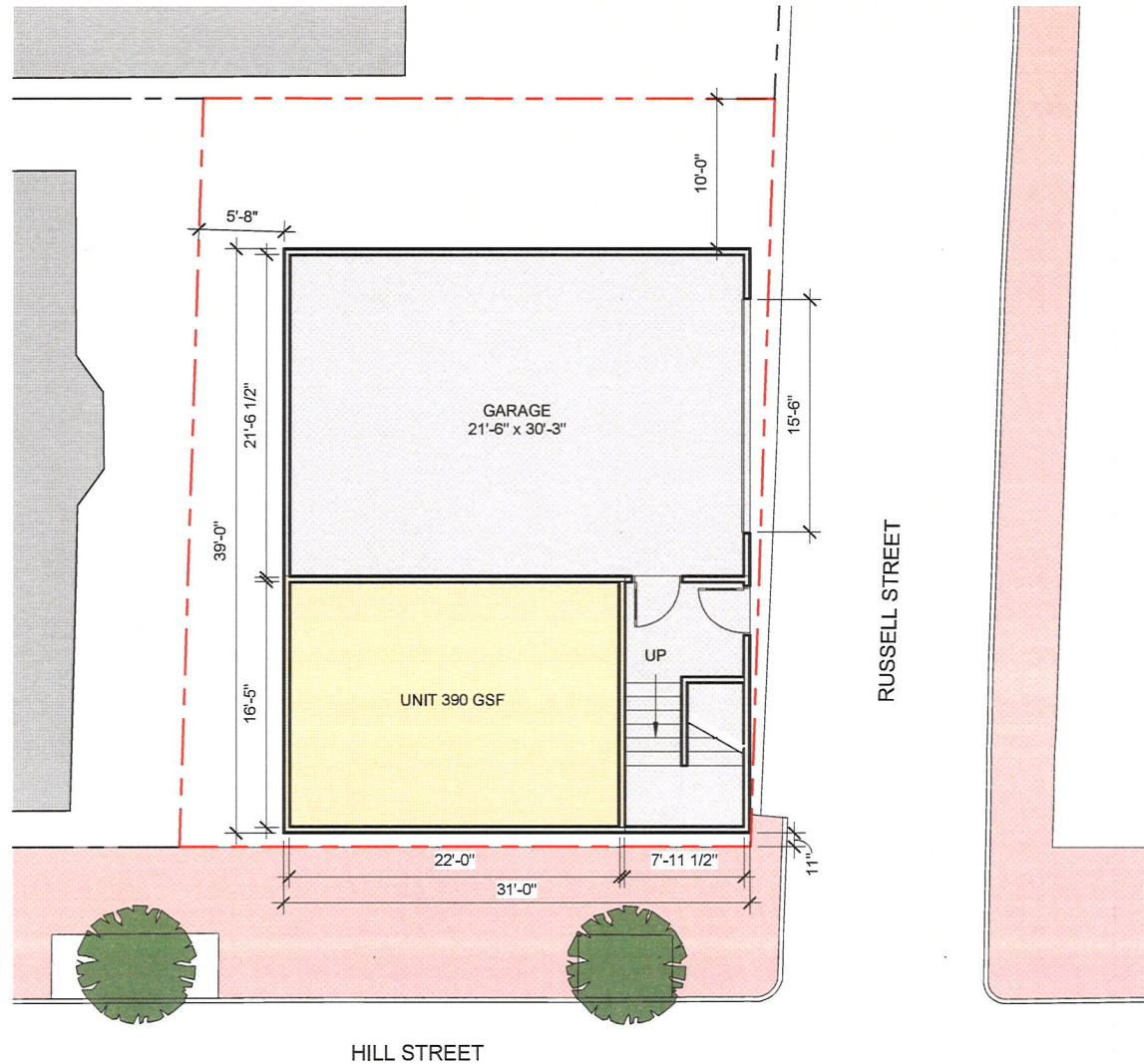


Image capture: Jul 2011 © 2017 Google

Portland, Maine
Street View - Jul 2011

3 UNIT RESIDENTIAL BUILDING
 1 - 390 SF EFFICIENCY UNIT
 1 - 1,066 SF UNIT
 1 - 1,456 SF UNIT

3 STORIES WITH MEZZANINE
 TOTAL GROSS SF - 4,159 SF
 BUILDING FOOTPRINT - 1,209 SF
 LOT SIZE - 1,899 SF
 TOTAL LOT COVERAGE - 64%



1 | 1ST FLOOR
 1/8" = 1'-0"

ARCHETYPE Architects 48 Union Wharf, Portland, Maine 04101 (207) 772-6022 Fax (207) 772-4056		Architect	
		Date 02/23/17	Scale 1/8" = 1'-0"
Project 4 RUSSELL ST 4 RUSSELL ST PORTLAND, ME 04102		FIRST FLOOR PLAN	
A1.1			

NEW DAY FARM, LLC
136 Sheridan Street, #3A
Portland, ME 04101

June 30, 2017

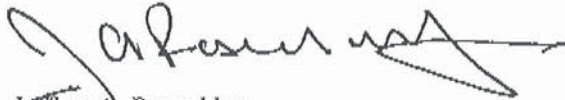
Zoning Board of Appeals
City of Portland
389 Congress Street
Portland, ME 04101

RE: 4 Russell Street - Map 54, Block D, Lot 1

Dear Sir or Madam:

This letter is to confirm that Richard N. Bryant, Esq., of Van Meer & Belanger, is authorized to represent New Day Farm, LLC in connection with the practical difficulty variance application for New Day Farm LLC's property at 4 Russell Street (Map 54, Block D, Lot 1). This matter is scheduled for the Zoning Board of Appeals meeting on July 13, 2017.

Yours truly,



Jeffrey A. Rosenblatt
Manager, New Day Farm, LLC

4 Russell St - Practical Difficulty Variance

