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**38 Portland St. - permit #2017-00884**

1 message

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**Ann Machado** <amachado@portlandmaine.gov>  
To: Janet Perkins <perkupjanet@gmail.com>

Mon, Jun 19, 2017 at 1:37 PM

David &amp; Janet -

I have reviewed the information that you submitted with your permit application to legalize a dwelling unit on the second floor. At this point all the criteria is not being met and therefore I cannot approve the permit for zoning.

1. The bottom of the floor plan was cut off so it is not completely clear what the bottom two floor are, especially the left side one. Is that the basement? If so is the basement completely empty? Also the floor plans are supposed to be dimensioned. Please submit revised floor plans.

2. The evidence that you submitted to show that the unit existed as of April 1, 1995 is not sufficient. Affidavits from people who live and work in the neighborhood who might be familiar with the property are not sufficient. I understand that you tried to get the previous owner and her son to submit an affidavit but you cannot submit one based on what they said. An affidavit needs to come from someone who previously owned the building or lived in the building at the time. The "Been Verified" document gives the date for Michael Delaney at 38 Portland Street as 01/2003 which is well after 1995. The White Pages document lists 38 Portland Street as one address of three addresses that Michael lived at but the dates overlap for the three properties so it is not clear if he lived at 38 Portland Street as of April 1, 1995. You need to find more concrete evidence that the unit existed as of April 1, 1995. If you can't find other evidence under section 14-391(f) (stated below) if the Zoning Administrator cannot approve the application, you can file a conditional use application to go before the Zoning Board of Appeals :

*Section 14-391(f) Disapproval of Application. In the event the application is not approved by the Zoning Administrator or in the event of a timely objection filed by a person qualified herein to file such an objection, the applicant, within (30) days from the decision of the Zoning Administrator or objection, may appeal the matter to the Board of Appeals as a conditional use.*

You have thirty days to provide sufficient evidence that the dwelling unit existed as of April 1, 2017, or apply for a Conditional Use Appeal with the Zoning Board of Appeals to legalize the Nonconforming Unit. If you don't do this within the thirty days, this application is denied and cannot be appealed.

Please contact me with any questions.

Ann

Ann Machado  
Zoning Administrator  
Permitting and Inspections Department  
City of Portland, Maine  
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