

Memo

To: Chair Morrisette and Members of the Portland Planning Board

From: Jennifer L. Thompson, Associate Corporation Counsel

Date: November 7, 2013

Re: 133 York Street and Neighbor concerns

Questions have come up in connection with this project over the Board's authority and the extent to which it can deny or condition approval because of potential harm that may result to neighboring properties, either in the form of falling construction debris, architectural damage from blasting, or contractors occupying neighbors' parking spaces without permission.

This memo is simply to confirm that the Planning Board's authority is constrained by the City's Code. Although the Board is authorized to place conditions on the approval of a project, the kinds of conditions it can impose are generally related to the use that is being made of the property itself and the particulars (design, etc.) of the development.

The Board does not have the authority to condition or deny approval of a project based on the speculative violation of other laws. The concerns raised by neighbors about this project thus far appear to be private civil matters (civil trespass, for example) that must be resolved between the neighbors and the applicant if and when those concerns come to pass.

I will be at the hearing on November 12 and will be happy to discuss this further and answer any questions you might have.