

**Department of Permitting and Inspections**

Ann Machado, Zoning Administrator

April 26, 2016

Todd M. Alexander
3 Carrol Street
Portland, ME 04102

Re: 1 Joy Place & 173 Brackett Street (Rear) – 045-E-049 and 045-E-048 (the “Property”) – B-1
Neighborhood Business Zone

Dear Mr. Alexander,

I am in receipt of your request for a zoning determination concerning the Property located at 1 Joy Place and 173 Brackett Street (Rear). The Property is located in the B-1 Neighborhood Business Zone with a Historic Overlay Zone. Currently there is an existing three family home, a garage and the foundation of a barn that was demolished in 2010 (permit #10-0209) located on the Property.

In your letter requesting a zoning determination, you state your intention to demolish the existing buildings and replace them with a multifamily residential building that conforms to the dimensional requirements of the B-1 zone. § 14-162(a)(1)(a) of the ordinance states that any residential use permitted in the zone that abuts the lot is permitted. The R-6 zone, which abuts the lot, allows multifamily dwellings as outlined in § 14-136 (a)(2), therefore a multifamily could be built on this property. The dimensional requirements for the B-1 zone are outlined in section 14-165. At this point the minimum street frontage requirement is not being met.

You state in your letter that “the property does not front a public street, but it does have an interest in a private road, Joy Place, that provides permanent unobstructed frontage of 23.9 feet on Brackett Street”. You go on to state that there is a recorded easement giving the Property the permanent right to use Joy Place. Information provided by the Engineering Division of the Portland Public Works Department confirms the status of Joy Place as a private way. They state: “Joy Place is considered by the City of Portland DPS Engineering Archives to be a Private Way. Joy Place has not been accepted by the City of Portland” (attached).

According to the assessor’s record, the three family house was built in 1840 and the garage was built in 1900 and are therefore legally nonconforming to some of the current dimensional requirements of the B-1 zone. Division 23 “Nonconforming Use and Nonconforming Buildings” gives the owner of existing developed lots the right to reconstruct a building due to decay, if the reconstruction is completed within one (1) year of demolition of the building [section 14-385(d)]. If the existing buildings are demolished and replaced with a multifamily building within a year of demolition, and the building meets the dimensional requirements of the B-1 zone, the Property would remain legally nonconforming to the minimum required street frontage of twenty feet and a new multifamily dwelling could be built.

At this time I need to make it clear that this is just a determination as to the zoning requirements to build a multifamily on the Property. There are other factors that could restrict the development of the



Department of Permitting and Inspections

Property as a multifamily building. One factor that comes to mind is the width of Joy Place and the ability of the Fire Department to access the building. Building code requirements and access to public utilities also have to be considered.

If you have any questions regarding this matter, please feel free to contact me at 874-8709.

Yours truly,

Ann B. Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland Maine
207.874.8709
amachado@portlandmaine.gov