



PORTLAND MAINE

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*Penny St. Louis Littell- Director of Planning and Development
Marge Schmuckal, Zoning Administrator*

TO: CHAIR AND ZONING BOARD OF APPEALS

FROM: MARGE SCHMUCKAL, ZONING ADMINISTRATOR

SUBJECT: 9 DEERING STREET – 046-B-023 – R-6 ZONE – HISTORY

DATE: JANUARY 29, 2009

The reason for the required conditional use appeal at this address is that the owners of this property never followed through with the required permitting as required by ordinance. I would refer the Board to refer to section 14-474(e), which is attached. It states that the act of granting a conditional use to an applicant, does not authorize the proposed use until the applicant applies for and receives an actual building permit for such use. If a building permit is not issued within six (6) months, the conditional use permit shall be deemed invalid.

A research of the City's microfiche (see attached) shows that the City zoning ordinance had to be changed by City Council order #284 on November 2, 1981 to allow the conditional uses requested by the applicant. It was immediately afterward on December 17, 1981 that the Zoning Board of Appeals granted a conditional use appeal at 9 Deering Street for an attorney's office on the 1st floor. The files also indicate a permit application for a change of use from 4 apartments and 1 doctors office to 4 apartments and 1 attorney office. However this permit was never stamped and issued. Apparently the applicant did not follow through with the requirements of section 14-474(e). Therefore this office considers the use to be invalid.

Because there was no history to allow the professional offices on the first floor, we required the current owner to apply for a conditional use to legalize the current use. On March 15, 2007 the ZBA granted a conditional use appeal for four professional offices on the 1st floor. The applicant was reminded and given an application to apply for a building permit to change the use. The applicant has not applied for the required building permit within the 6 month window. Therefore as stated under 14-474(e), the conditional use appeal is invalid.

The applicant is now back in front of you for a conditional use appeal for professional offices on the first floor. If the appeal is granted by the Board, this office will again remind the applicant that there is a requirement for a follow-up with a valid building permit application and issuance.