

10/10/13

Captain Chris Pirone
Portland Fire Department

RE: 40 DEERING STREET BUILDING PERMIT

Dear Captain Pirone,

Last week I met with representatives of the Foundation House (40 Deering Street) to discuss their concerns as outlined in the attached letter dated September 18, 2013.

In short, we have a situation where one City Department (Zoning, via the Zoning Board of Appeals) has identified this address as a single family home pursuant to the City Code. Simultaneously, another City Department (PFD) has applied NFPA 101 Life Safety Standards as dictated by a separate section of the City Code, and concluded that this address is being used as a lodging/boarding house. This determination means the applicant, who wishes to renovate the basement area of 40 Deering Street, must install an automatic sprinkler system throughout the entire building pursuant to NFPA 101 standards. The conflicting definitions do indeed seem to leave the applicant in an untenable situation.

After review of the file and the applicable (yet conflicting) standards, it is this office's opinion that the determination by the Zoning Board of Appeals should prevail in this case. The intent of local zoning regulations should take precedence, particularly in the case of an applicant that has met all other requirements and attempted to work closely with the City throughout the entire permitting process.

Please note that Chapter 10, Section 10-22.1 of the City Code authorizes the Fire Chief to modify "any of the provisions of the Fire Code and/or the Life Safety Code . . . when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done." It appears that this situation meets that criteria.

Please feel free to call or e-mail me with any questions.

Sincerely,

Trish McAllister

cc: Richard N. Bryant, Esq.