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*Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator*

April 29, 2013

Mark McCain
49 Summer Street
Portland, ME 04102

Re: 45 Summer Street – 058-A-032 – R-6 Residential Zone – Permit #2013- 00720 New Single Family Home

Dear Mr. McCain,

I have finished my zoning review of your application to build a new single family home at 45 Summer Street. There was a previous building on this lot that you demolished in 2009 (#09-1135). When the building was demolished you provided a chain of title to show that the lot was a lot of record. On the application you also stated a “new house to be built in +/- two years”. When the demolition permit was issued the note under the Zoning approval stated “Applicant has submitted documentation that the lot is a lot of record. A house can be built on the lot following the conditions under section 14-433 for the R-6 zone”.

Section 14-433 defines a lot of record as a lot that existed as of “June 5, 1957, and held under separate and distinct ownership from adjacent lots and having a street frontage of forty (40) feet...may be considered a buildable lot in any residential zone...with a minimum lot size of five thousand (5,000) square feet except that a lot in the R-6 zone may have a minimum lot size of three thousand (3,000) square feet provided that the applicable yard dimensions can be met”.

The lot at 45 Summer Street meets the minimum lot size and street frontage requirements for a lot of record. The R-6 yard dimensions are outlined in section 14-139a(4). The proposed house meets the required rear and side yard setbacks, but it does not meet the required front yard setback. Section 14-139(a)(4)(a) states that the minimum setback for the front yard is ten feet, but “a front yard need not exceed the average depth of front yards on either side of the lot”. The front yard for the lot to the left of 45 Summer is setback 2.2 feet from the property line. The lot to the right of 45 Summer is vacant so the minimum front yard setback of ten feet must be used to obtain the average depth of the front yards on either side. The average of 2.2 feet and 10 feet is 6.1 feet. Therefore the front yard for 45 Summer Street needs to be a minimum of 6.1 feet from the property line. The proposed house scales at 2.7 feet. Since the minimum front yard setback is not being met, I must deny the building permit at this time.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty (30) days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal.

Please feel free to contact me if you have any questions.

Yours truly,

Ann B. Machado
Zoning Specialist
(207) 874-8709

Cc: file