



Jeff Levine, AICP
Director, Planning & Urban Development Department

Family Crisis Services
PO Box 704
Portland, ME 04104
Attn: Lois Reckitt

June 5, 2015

Re: 14 Orchard Street – 061-E-006 – R-4 Residential Zone – current use of property

Dear Ms. Reckitt,

Based on our research regarding the history of your parcel, it appears that your use would fall under the category of “Sheltered Care Group Home.” As such, it would be a conditional use in the R-4 zone, and would be limited to 12 beds and limited services to residents.

Given that your current use appears to be a 16 bed shelter with limited services, this determination leaves you with three options, which are not necessarily mutually exclusive:

1. Apply for a conditional use permit with the Zoning Board of Appeals and, if you meet the standards outlined in that conditional uses and receive approval, reduce the number of beds in the shelter to 12 beds or fewer. Enclosed are the conditions that would have to be met for the conditional use to be granted;
2. Appeal this determination to the Zoning Board of Appeals, who might determine that your use is a lawfully conforming continuation of the earlier Peabody House use of this parcel; or
3. Request a zoning change, most likely in the form of a contract or conditional zone that would permit a 16 bed sheltered care group home at this location. Such a request would involve a public hearing at the Planning Board, as well as one at the City Council level. Ultimately, a majority of the City Council would have to approve such a change.

Background

On January 15, 2015, our office received an email from a neighbor of 14 Orchard Street complaining about the number of cars being parked at the facility both in the driveway and on the street and the number of people going in and out of the facility. Our office sent a code enforcement officer out to check on the use of the property. He determined that it was a 16 bed domestic violence shelter.

At their request, I then met with a group of neighbors in April to hear the specifics of their concerns. Attached is a letter sent to me by one of the neighbors following that meeting.

I then requested a meeting with you and Jenny Stasio to discuss these concerns. You were both very helpful at that meeting, and provided me with some clarifications about the existing uses and some records related to police and fire calls to your property. Your

willingness to meet with the neighbors regularly, and willingness to support residential permit parking on that street if the residents so desire, are much appreciated.

Property History

Based on our records, it appears that the Peabody House was granted a permit in 1994 (#94-0253) to change the use of the property from a two family to a "Boarding Home." A certificate of occupancy was issued on November 5, 1994 approving the occupancy of the entire structure as a "Boarding House." Under this certificate of occupancy, Peabody House operated as a facility for people in the last stages of the HIV disease and their support staff from 1994 to 2009. In 2009, the Family Crisis Services' domestic violence shelter moved into 14 Orchard Street. Neither a "Boarding House" nor a "Boarding Home" is listed as specific uses in the R-4 Residential Zone today, nor did such uses appear in 2009. While I cannot speculate as to why your use was permitted to locate at this site in 2009, it does not appear to currently be consistent with the uses permitted in that zone, nor does it appear to be a legally nonconforming use for the parcel.

For these reasons, it appears that your use needs to be in compliance with current zoning, or obtain a zoning change to allow you to continue to operate as a 16 bed shelter.

Next Steps

Ann Machado, the City's Zoning Administrator, is happy to meet with you to discuss next steps. Please contact her within 30 days to let her know your plan moving forward, whether one or more of the three options above, or a different strategy.

While I know this must be unwelcome news to you, please know that the City is fully supportive of the type of service you provide. However, we also owe it to the abutting neighbors to ensure that the uses on their street comply with the City's ordinances.

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

Sincerely,



Jeff Levine

cc: Ann Machado, Zoning Administrator
Tammy Munson, Inspections Division Director
Barbara Barhydt, Development Review Services Manager

Enc. (2)

WARD I. GRAFFAM
ATTORNEY AT LAW
29 ORCHARD STREET
PORTLAND, MAINE 04102

TEL. 772-6872

Mr. Jeff Levine
Planning & Urban Development Department
Planning & Urban Development Director
Portland City Hall
389 Congress Street
4th Floor
Portland, Maine 04101

April 7, 2015

Re: 14 Orchard Street

Dear Mr. Levine,

My wife (Linda) and I thank you for agreeing to meet with us today regarding the existing zoning violation situation at 14 Orchard Street. Several of our neighbors will be joining us to express their concerns as well.

The property is currently being occupied by the Family Crisis Services as a shelter and an outreach facility. Your staff has described the "...current legal use of the property {as} a "boarding house" based on a certificate of occupancy from 1994...." That designation was given to the property erroneously to the former "Peabody House" (which was, in fact a handicapped facility) by your office. The existing occupants have been unable to produce a valid occupancy permit as required by the City Codes. Further, your office has confirmed that the facility is not currently in compliance with the Code.

The Crisis Center currently contains at least 3 offices in addition to a conference center on the 3rd floor. We believe that the facility is being operated not only as a part-time shelter but as the outreach center for Family Crisis Services for non-residents (based on their presence on the web which pinpoints their location, address and phone number). The excess traffic on the street (up to 10 cars) and the large number of people entering and leaving the building indicates that the shelter is not being just used for the few part-time residents (1-3?) who may occupy those premises.

Our R-4 Zone is fragile and we would like to be sure that the record of the wrongful designation of that facility as "a boarding house" is corrected for the future so that no subsequent purchasers can attempt to rely on that mistake. The operation of "business offices" in that facility threatens to destroy the very fabric of our residential neighborhood.

Further, we would request that the city issue an immediate "cease & desist" order requiring the Crisis Shelter to remove the existing offices (except for one needed for caregivers) and to stop using that

facility as a regional center and/or in furtherance of their outreach services. The excess traffic and frequent visits from the City Fire Department, the City Medcu and Police Departments (the city records will most likely show 3 to 5 visits a month) may be indicative of inadequate 24 hour staffing for residents of the shelter.

Finally, we would appreciate receiving assurances from your office that the facility will be required to comply with the City Codes and that we receive a copy of the planned course of action along with a time-line of when compliance will be required.

Thank you for your time and consideration of this matter,


Ward G. Graffam



Family Crisis Services

Working to end domestic abuse in Cumberland and Sagadahoc Counties
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May 1, 2015

Dear Mr. Levine,

Thank you for taking the time to meet with us last week. As we discussed in person, our facility located at 14 Orchard Street in Portland is a 16-bed residential shelter for women and children experiencing domestic violence. The only people that have access to the building are the 16 residents and the staff who work with the residents. It is a secure facility and therefore only those who have the door code are able to access the building. On site, we have three offices which are for shelter staff and a conference room utilized for shelter staff meetings and resident meetings. We do not serve any other individuals at this location. Family Crisis Services does have three outreach offices which are located in Portland (at the Police Department), Brunswick and Bridgton. These are offices that the general public can access at any time. The average resident stays at the shelter approximately 45 days according to our most recent annual statistics. During this time, our staff work with them to find safe, stable housing in the community.

There are times when the police, medcu and/or the fire department are called to the shelter to meet the medical needs of those residing here. We have attached the calls for service for 2014. You will notice that there are 35 total calls however 14 of these calls were special attentions which just indicate that we have asked the police department to drive by more frequently throughout the night. It does not mean that there was an incident that needed responding to but rather that we were preemptively trying to ensure the safety of the residents at the shelter and the neighborhood as a whole. Many of the other calls were not immediate need calls but rather officers taking reports which is understandable given the population that we serve.

Family Crisis Services values our presence on Orchard Street and would like to propose two suggestions that may ease some of the neighborhood tension. The first is that Family Crisis Services would support the neighborhood proposing that the City of Portland change the parking on the street to one hour parking without a resident parking sticker. The second is that Family Crisis Services would be willing to hold quarterly meetings with any interested neighbors at a location other than our facility to address emerging concerns and discuss solutions. Additionally, the Residential Services Director (Jennifer Stasio) has made her cell phone number available to neighbors who have immediate issues and will continue to do so if desired.

Thank you for time and attention to this matter.

Sincerely,



Lois Galgay Reckitt
Executive Director



Jennifer Stasio
Residential Services Director



calls for service to 14 Orchard Street

CALLS FOR SERVICE
 CAD CALL# Type of call TOC M Day Year Call Street# Call Street Name

CALLS FOR SERVICE	CAD CALL#	Type of call	TOC	M	Day	Year	Call Street#	Call Street Name
ASSIST FIRE DEPT	140050003	ASSIST FIRE DEPT	438	1	5	14	14	ORCHARD
ASSIST FIRE DEPT	140240169	BUSY AT A MEETING	448	2	24	14	14	ORCHARD
INVESTIGATION	140570200	INVESTIGATION	100	1	26	14	14	ORCHARD
ASSIST FIRE DEPT	141050184	ASSIST FIRE DEPT	438	4	15	14	14	ORCHARD
PANIC ALARM	141270139	PANIC ALARM	422	5	14	14	14	ORCHARD
ASSIST FIRE DEPT	141410595	ASSIST FIRE DEPT	438	5	21	14	14	ORCHARD
ASSIST FIRE DEPT	141650597	ASSIST FIRE DEPT	438	6	14	14	14	ORCHARD
ASSIST CITIZEN	141650458	ASSIST CITIZEN	381	6	14	14	14	ORCHARD
SUSPICIOUS ACTIVITY	141690384	SUSPICIOUS ACTIVITY	191	6	18	14	14	ORCHARD
THEFT	141820235	THEFT	191	6	18	14	14	ORCHARD
VIOLATION OF PAPERWORK	141870590	VIOLATION OF PAPERWORK	249	7	7	14	14	ORCHARD
ASSIST FIRE DEPT	141880455	ASSIST FIRE DEPT	438	7	7	14	14	ORCHARD
SPECIAL ATTENTION CHECK	141960627	SPECIAL ATTENTION CHECK	107	7	15	14	14	ORCHARD
SPECIAL ATTENTION CHECK	141960053	SPECIAL ATTENTION CHECK	107	7	15	14	14	ORCHARD
SPECIAL ATTENTION CHECK	141970566	SPECIAL ATTENTION CHECK	107	7	16	14	14	ORCHARD
SPECIAL ATTENTION CHECK	142000209	SPECIAL ATTENTION CHECK	107	7	19	14	14	ORCHARD
BEHAVIORAL HEALTH	142130286	BEHAVIORAL HEALTH	291	8	8	14	14	ORCHARD
DRUG OVERDOSE	142130292	DRUG OVERDOSE	117	8	1	14	14	ORCHARD
911 HANG UP CALLS	142510583	911 HANG UP CALLS	466	9	8	14	14	ORCHARD
VIOLATION OF PAPERWORK	142600482	VIOLATION OF PAPERWORK	249	9	17	14	14	ORCHARD
THEFT	142650216	THEFT	051	9	22	14	14	ORCHARD
ALARM/BURGLARY	142810132	ALARM/BURGLARY	424	10	8	14	14	ORCHARD
PERSON(S) REFUSING TO LEA	143140162	PERSON(S) REFUSING TO LEA	181	11	10	14	14	ORCHARD
ALARM/BURGLARY	143220056	ALARM/BURGLARY	424	11	18	14	14	ORCHARD
SPECIAL ATTENTION CHECK	143260405	SPECIAL ATTENTION CHECK	107	11	22	14	14	ORCHARD
SPECIAL ATTENTION CHECK	143280474	SPECIAL ATTENTION CHECK	107	11	24	14	14	ORCHARD
SPECIAL ATTENTION CHECK	143290598	SPECIAL ATTENTION CHECK	107	11	25	14	14	ORCHARD
SPECIAL ATTENTION CHECK	143480482	SPECIAL ATTENTION CHECK	107	12	14	14	14	ORCHARD
ASSIST FIRE DEPT	143500463	ASSIST FIRE DEPT	438	12	16	14	14	ORCHARD
SPECIAL ATTENTION CHECK	143500542	SPECIAL ATTENTION CHECK	107	12	16	14	14	ORCHARD
SPECIAL ATTENTION CHECK	143510101	SPECIAL ATTENTION CHECK	107	12	17	14	14	ORCHARD
ASSIST FIRE DEPT	143510062	ASSIST FIRE DEPT	438	12	17	14	14	ORCHARD
SPECIAL ATTENTION CHECK	143540147	SPECIAL ATTENTION CHECK	107	12	20	14	14	ORCHARD
SPECIAL ATTENTION CHECK	143550164	SPECIAL ATTENTION CHECK	107	12	21	14	14	ORCHARD
SPECIAL ATTENTION CHECK	150030102	SPECIAL ATTENTION CHECK	107	12	22	14	14	ORCHARD
VIOLATION OF PAPERWORK	150220268	VIOLATION OF PAPERWORK	249	1	3	14	14	ORCHARD
CHECK WILL BEING MEDCU NE	150600092	CHECK WILL BEING MEDCU NE	393	2	5	14	14	ORCHARD
SUICIDE THREATS	150420613	SUICIDE THREATS	289	2	11	14	14	ORCHARD
DV FOLLOW UP	150450381	DV FOLLOW UP	444	2	11	14	14	ORCHARD
AGGRAVATED THEFT	150620380	AGGRAVATED THEFT	145	3	3	14	14	ORCHARD
911 HANG UP CALLS	150630314	911 HANG UP CALLS	466	4	4	14	14	ORCHARD
DRUG OVERDOSE	150640016	DRUG OVERDOSE	117	3	5	14	14	ORCHARD

*** END OF REPORT ***
 COUNT 43

2014

4. Home occupations subject to the provisions of section 14-410 (home occupation) of this article;
5. Municipal uses, excluding those specifically set forth in section 14-103 of this division.
6. Special needs independent living units, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.
7. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 535-84, 5-7-84; Ord. No. 264-84, § 1, 12-17-84; Ord. No. 67-87, § 2, 11-2-87; Ord. No. 82-88, § 1, 7-19-88; Ord. No. 86A-89, § 4, 8-21-89; Ord. No. 33-91, § 5, 1-23-91; Ord. No. 33A-91, § 2, 4-17-91)

***Editor's note**--Ord. No. 82-88, § 1, adopted July 19, 1988, amended § 14-102 by adding subsection (b)5 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Sec. 14-103. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12)

individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:

- a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
- b. There shall be no open outside stairways or fire escapes above the ground floor;
- c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration of an existing structure to accommodate one (1) or more dwelling units provided that:
 - a. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - b. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;