WALSH
ENGINEERING ASSOCIATES, INC.

Reviewed for Code Compliance
Inspections Division
Approved with Conditions
Date: 09/18/17

June 21, 2017

Ms. Ann Machado
Zoning Administrator
City of Portland Inspections Division
389 Congress Street
Portland, Maine 04101

RE: Level I Minor Residential Application
7 Diamond Pass
Peaks Island
Portland, Maine

Dear Ann,

On behalf of Sam Spirn and Kate Gulliver (Applicants), Walsh Engineering Associates, Inc. (WEA) is pleased to submit this Level I Minor Residential permit application for the reconstruction of a residence and guest house at the subject property. As you are aware from our previous meetings, the existing structures are non-conforming with relation to building setbacks. Discussion of how the proposed renovations meet the ordinance standards for reconstruction and expansion of non-conforming structures is enclosed with this application.

On behalf of the Applicants, we look forward to working with you to make this project a success. Please find enclosed the required Level I Minor Residential permit application materials and plans. Please contact me at your earliest convenience if you require any additional information.

Respectfully,

Silas Canavan, PE
Walsh Engineering Associates, Inc.

cc: Sam Spirn, Applicant
Russ Tyson, Witten Architecture

enc: Level I Minor Residential Site Plan Application and Materials
Plan Set

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CITY OF PORTLAND, MAINE RESURGAM
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Assessment of Compliance for Non-Conformance Reconstruction and Expansion

As discussed with City Staff at meetings on August 19, 2016, August 31, 2016, and December 23, 2016, and with multiple telephone and email correspondences, the proposed project involves the reconstruction and expansion of two legally non-conforming structures with relation to side setbacks. A summary of how the proposed buildings meet the applicable non-conformance standards is provided below.

1. Legally Non-Conforming Structures

Per discussion with City Staff, WEA researched the zoning files at City Hall to determine if the existing structures were legally non-conforming. Based on WEA's research, the following construction and permitting timeline was established.

- 1900±: Original cottage constructed
  - Based on tax card.
  - No permit found.
  - Cottage is grandfathered.
- 1932: Addition to cottage
  - Building Permit #32/452
  - Reference to "8.5' x 9' open platform"
- 1936: Cottage roof repaired
  - Repair Permit #0913
- 1937: Garage constructed
  - Building Permit #00750
- 1938: Cottage renovation
  - Building Permit #0879
- 1950: Tax Card
  - Does not show deck
- 1991: Wraparound porch rebuilt and enlarged
  - Permit #912793
  - No mention of deck construction
- 1993: Cottage Addition
  - Southeast corner of house
  - Permit #30446

Based on this information WEA determined that the house was constructed prior to 1957 and is shown on the 1950 tax card sketch. Multiple building permits were on file for repairs and expansions of the cottage and porch. Therefore, WEA understands that the entire cottage structure and porch is legally non-conforming. There were no permits or sketches of the existing deck found, therefore, the deck was not used when determining existing legally non-conforming areas for reconstruction and expansion purposes.

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2. Structure Setbacks

Table 1 compares the setbacks for the existing and proposed structures.

Table 1 - Zoning Setback Comparision					
Setback	Required	Structure			
		House		Garage/Guest House	
		Existing	Proposed	Existing	Proposed
Front*	14.1'	49'	43.6'	15.4'	15.4'
North Side	20'	14.9'	15.2'	16.0'	16.2'
South Side	20'	11.6'	14.8'	18.8'	19.0'
Rear (HAT)	75'	175'	141.5'	238'	238'
*Front setback need not exceed average depth of front yard on either side of lot.					

Table 1A - Front Setback Cacluation	
Abutter	Front Setback
Northerly	>25' (=> use 25')
Southerly	3.2'
Average	**14.1'**

As shown in Table 1 above, the proposed front and rear setbacks meet the ordinance standard for both structures. The proposed north side and south side setbacks exceed the existing north and south side setbacks.

The separation between the proposed house and guest house is 21.2 feet, which is greater than the required front yard setback of 14.1 feet.

3. Non-Conforming Footprint

The existing non-conforming footprint for both buildings has been reduced in the proposed condition as summarized in Table 2 below.

Table 2 - Non-Conforming Footprint Comparison			
House		Garage/Guest House	
Existing	Proposed	Existing	Proposed
447 SF	444 SF	18 SF	16 SF

As discussed with City Staff, non-conforming footprint from one side may be moved to the other side of the structure as long as the existing setbacks on each side are not reduced (see Table 1 above). See Sheet C2.1 in the plan set for a graphical comparison of the non-conforming areas.

4. Non-Conforming Porch Enclosure

Per discussion with City Staff, the portion of the existing non-conforming porch may be utilized in the proposed non-conforming footprint if the associated area is enclosed with at least 50% glass (per ordinance section 14-427). Therefore, the enclosed portion of the northerly proposed non-conforming area will be enclosed with greater than 50% glass, as shown on the architectural drawings.

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5. Second Floor Expansion

Per discussion with City Staff, the portion of the second floor expansion within the existing building footprint is limited to 80% of the existing first floor footprint (per ordinance section 14-436(b)). The first floor footprint of the existing building is 1,286 square feet (blue area). As shown in the diagram below, the total proposed second floor area within the existing building footprint is 860 square feet (red area), or 67% of the existing first floor footprint. Therefore, section 14-436(b) of the ordinance is inherently met.

Figure 1: Existing First Floor Footprint vs. Proposed Second Floor Area Analysis

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6. Building Height and Roof Pitch

As previously discussed with City Staff, the proposed house and guest house building heights will be increased by approximately 7 feet and 1.3 feet, respectively, to accommodate a different roof styles, modern ceiling heights, current construction practices, and insulation requirements.

Table 3 - Structure Height Comparison			
House		Garage/Guest House	
Existing	Proposed	Existing	Proposed
21.67'	28.67'	8.92'	10.25'

City Staff previously indicated that the minor increases in roof heights were acceptable because they will not result in a new floor of livable space and will be well below the current zoning maximum building height of 35 feet.

Existing roof pitch of the main portion of the house will be increased slightly from 9.5:12 to 10:12.

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Assessment of Compliance with Zoning Requirements

7 Diamond Pass
Portland, Maine

The following narrative demonstrates that the project conforms to the applicable design standards of Section 14-526 of the City of Portland Zoning Ordinance for a Level I Minor Residential permit application.

a) Transportation Standards
   1. N/A
   2. Access and Circulation
      a. Site Access and Circulation
         i. *The project will maintain the existing access from Diamond Pass, providing safe and reasonable access to the proposed property.*
         ii. *The existing site access will remain. There are no conflicts with existing turning movements or traffic flows.*
   3. N/A
   4. Parking
      a. Location and required number of parking spaces
         i. *Two parking spaces will be provided for the single family residence.*
         ii. *N/A*
         iii. *N/A*
         iv. *A driveway 21.3' wide with a minimum length of 19' will be provided to accommodate two vehicles.*

b) Environmental Quality Standards
   1. Preservation of Significant Natural Features:
      a. *The property is located adjacent to Casco Bay. All structures will be located more than 75' from the HAT. No disturbance to significant natural features are proposed.*
      b. *N/A*
      c. *No waivers are being requested for the project.*
   2. Landscaping and Landscaping Preservation
      a. Landscaping preservation
         i. *One significant tree is located on the southwest corner of the property, which will be preserved.*

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ii. *There is one tree 10" DBH or greater onsite, which will preserved.*

iii. *Th existing tree will be protected during construction.*

iv. *No waivers are being requested.*

v. *No vegetation clearing is proposed within 75' of the HAT except for limited clearing associated with a path to the beach and the restoration of a vegetated area overtaken by an invasive species (Japanese knotweed). A Maine DEP Permit-by-Rule notification will be submitted for the work within 75' of the HAT. A copy of the PBR will be provided to the City of Portland.*

b. Site Landscaping

i. N/A

ii. N/A

iii. Street Trees

a. *Section 4.6.1 of the Technical manual requires 2 street trees per single family house. Two (2) river birch trees are proposed adjacent to the Diamond Pass ROW.*

b. *Site constraints including a narrow ROW and proximity to the edge of roadway prevent the installation of street trees in the ROW. Therefore, the Applicant is respectfully requesting a waiver from the requirement to plant in the ROW. The street trees are proposed to be planted along the Diamond Pass frontage approximately 3' from the property line.*

3. Water Quality, Stormwater Management, and Erosion Control

a. *Existing drainage patterns will generally remain the same. All runoff will flow towards the ocean or the Diamond Pass ROW. No additional runoff will be directed towards abutting properties. The site has been graded to prevent ponding.*

b. *N/A*

c. *N/A*

d. *Installation of silt fence is proposed downgradient of disturbed areas. Erosion and sedimentation control notes and details are included in the plan set.*

e. *The project will not pose a risk of groundwater contamination.*

f. *Both structures will be connected to the public sewer system in Island Ave. A copy of the sewer capacity application is included with this submission.*

c) Public Infrastructure and Community Safety Standards

1. Consistency with Master Plans

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a. *The development has been designed in accordance with the City Zoning Ordinance, Technical Manual, Master Plan, and off-premises infrastructure.*

b. *No easements are necessary for this project.*

2. Public Safety and Fire Prevention

a. *The site has been designed to promote safe and comfortable access by the public and residents.*

b. *Adequate emergency vehicle access to the site is provided from Island Avenue and Diamond Pass.*

c. *A sprinkler system will be installed throughout the entire building.*

3. Availability and Adequate Capacity of Public Utilities

a. *The applicable utility companies have been notified of the project and an 'Ability to Serve' letter has been provided by CMP. WEA has been coordinating with the PWD regarding the water and sewer services. Once the Applicant has retained a sprinkler designer to verify the size of the fire suppression service, an 'Ability to Serve' letter will be provided by the PWD. The proposed utility services have been designed to provide adequate capacity for the proposed project.*

b. *N/A*

c. *Water and sewer service installations within the Island Avenue right-of-way meet the requirements of Section 9 of the Technical Manual.*

d. *The site is proposed to be connected to the public sewer system with a 4" service.*

e. *All utilities have been designed in accordance with applicable standards.*

d) Site Design Standards: N/A