Portland Maine Yes. Google's good here.

Christina Stacey <cstacey@portla

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Date: _____

Re: Christina Stacey - Followup question/detail for 75 Bay View Drive pern...

14 messages

Laura Newman Cyellowcape@gmail.com> Wed, Sep 20, 2017 at 8:06 AM
To: cstacey **C**cstacey@portlandmaine.gov>

Hi Chris -
Thank you for your email and questions.

To clarify, we probably erred in calling this a deck as it will be at ground level and technically a boardwalk, not a "structure" as defined in some of the Permitting Dept. documents.

We have a 13'x10.5' concrete slab-on-grade (4") which is next to the house, on which the hot tub (65 sf) will sit. The "deck" is built on the slab ("floating" in the term our contractor uses) to surround the tub and conceal the slab and sits at ground level with no entries to/from house, etc. It is not clear whether this is technically a "deck" vs. some sort of hardscape feature or boardwalk, likely leading to much of the confusion on our part. The actual square footage of the wood decking/boardwalk around the tub is about 79'.

Meanwhile, we have the 60 sf shed which sits on piers next to the slab (unattached to slab or deck, but abutting), to which one end of the pergola structure is attached. The pergola then extends over the slab to posts on separate piers. Neither the shed nor the pergola are attached to the house.

If this is still an issue we would appreciate a meeting to discuss it or perhaps show you the site. Thank you so much,
Laura
207-650-4510

On Tue, Sep 19, 2017 at 2:26 PM, cstacey **C**cstacey@portlandmaine.gov> wrote:

> Hi Laura,
>
> Thank you for being in touch. Yes, I started reviewing the permit and did have some questions about the setbacks. As you may have surmised, the normal rear setback in this zone is 25 feet. This may be reduced to 5' for detached accessory structures that are less than 144 square feet in size. Are the shed and hot tub deck/pergola going to be attached to or abutting each other in any way? If yes, the square footage of the total, combined structure would have to be less than 144 square feet in order to qualify for the lower rear setback. At 197 square feet total, the current configuration may be too large unless they are not touching. Also, will any of the shed or deck be attached to or abutting the principal house? If so, they would not be considered detached accessory structures and cannot qualify for the lower rear setback.
>
> Thank you for any clarification you can provide on these points!
>
> Sincerely,
> Chris Stacey
> Zoning Specialist
>
>
> On Thursday, September 14, 2017 at 3:43:50 PM UTC-4, Laura Newman wrote:
>
>> Hello - I was told that you are the zoning inspector looking over our application for several permits for projects.
>>
>> I was just reviewing our design and realized that the deck around the hot tub will not be as large as I calculated on the plan submitted that shows all items (multicolor). It will be about 10.5 x 13', so the square footage will be about 137. This is an at-grade deck - more like a platform, with a pergola above.
>>
>> Please let me know if you have any other questions about the submittal - I had help from several people in addition to trying to draw in all of the information myself.
>>
>> Thank you,
>> Laura Newman
>> 75 Bay View Drive

Portland

207-650-4510

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city emplo government business may be classified as public records. There are very few exceptions. As a result, plea advised that what is written in an e-mail could be released to the public and/or the media if requested.

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Christina Stacey <cstacey@portlandmaine.gov> Wed, Sep 20, 2017 at 11:13 AM
To: Laura Newman <yellowcape@gmail.com>

Dear Laura,

This department has always treated items like low decks and boardwalks as "structures" that must meet setbacks. The only exemption are features that are entirely at-grade, such as a patio, paved walkway, etc. Since the deck you describe will be constructed above the at-grade slab (even if only slightly), we would consider it a structure.

As far as square footage, we would normally be OK with not counting the square footage of the hot tub, since a hot tub alone is not considered a "structure" and it will simply be sitting on an at-grade slab and not on decking. However, the construction of the pergola over the hot tub and deck complicates things, as we would consider the pergola to be a structure with a square footage of its own, regardless of what is underneath it. Since the pergola will also be attached to the shed, we would look at this as one combined structure (shed/pergola, with the hot tub deck surround underneath) with a square footage of approximately 246 square feet (this is the best I could scale off the plan: 60 sq ft shed, ~165 sf pergola, and ~21 sf deck ell?).

Some options to resolve this are:
1) Remove the pergola from the plan, and just have the hot tub with deck surround (79 sf) and a non-touching shed (60 sf) which would create two separate structures small enough to qualify for the reduced rear setback
2) Construct the pergola and deck surround without any attachment to the shed, and reduce the pergola to be 144 square feet or less (with the tub and deck surround entirely underneath, thereby qualifying for the reduced rear setback.

Due to staffing levels we are not able to do on-site meetings, and it is difficult to accommodate meetings here at City Hall unless an issue cannot be resolved via e-mail/phone. Please read this e-mail carefully and let me know if you have questions or want to talk further by phone. If you want to revise your plans to address the issues I have raised and move forward with the permit, those plans can be e-mailed to me directly.

Kind regards,
Chris

[Quoted text hidden]
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Chris Stacey - Zoning Specialist
Permitting & Inspections Department
City of Portland
389 Congress St.
Portland, ME 04101
(207) 874-8695
cstacey@portlandmaine.gov

Laura Newman <yellowcape@gmail.com> Thu, Sep 21, 2017 at 8:13 AM
To: Christina Stacey <cstacey@portlandmaine.gov>

Thank you Chris. We are revising the design to meet the requirements of the shed and pergola being detached. I will send the plan shortly. Do we assume that others in our zone whose accessory structures are not meeting setback requirements (either close to rear property line or over the 144 SF) got variances? Or perhaps requirements have been revised since theirs were built? That is why I asked if we could meet to discuss, to see if we could get one.

More shortly, and thank you.
Laura
[Quoted text hidden]

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Christina Stacey <cstacey@portlandmaine.gov> Thu, Sep 21, 2
To: Caura Newman <yellowcape@gmail.com>

Hi Caura,

Without researching the specific property, it is hard to say. The structures either pre-dated the current rules, been built without permit approval which is unfortunately fairly common for sheds and decks. If you have concerns about a specific property let me know. You can also research the history of any property here at our office, Room 315 in City Hall - we have the full permit history for the property available for public review.

Best,
Chris
[Quoted text hidden]

Laura Newman <yellowcape@gmail.com> Thu, Sep 21, 2017 at 8:32 AM
To: Christina Stacey <cstacey@portlandmaine.gov>

Christina, thanks - drawing away here. But what about the option of a variance? How would we pursue that, if it's even an option?
Thanks,
Caura
[Quoted text hidden]

Christina Stacey <cstacey@portlandmaine.gov> Thu, Sep 21, 2017 at 8:52 AM
To: Caura Newman <yellowcape@gmail.com>

There is a "practical difficulty variance" option, but they are very difficult to get. I'm attaching the application form so you can see the eight standards that need to be met for the ZBA to be able to grant a variance. One of the most difficult standards is the "significant economic injury" piece, where you would need to show (preferably in actual dollar figures) what your economic injury would be if the variance were not granted. In my experience, the board has only granted these in highly unusual situations where the development of a property would be extremely limited by the normal zoning standards. However, it certainly is your prerogative to try. If you do want to try and pursue the variance, please let me know and I will send you the instructions.

Chris

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Application Practical Difficulty Variance.pdf
94K

Laura Newman <yellowcape@gmail.com> Thu, Sep 21, 2017 at 9:08 AM
To: Christina Stacey <cstacey@portlandmaine.gov>

Oh wow! No, I don't think we will do that! We'll just separate the structures and add posts, a design we had considered at one point anyway.

Here are revised drawings. Please let me know if this works, or if we need to modify further, and thank you for your patience with us on this process.

Caura
[Quoted text hidden]

Revised Plan 75 Bay View Drive.PDF
660K

Christina Stacey <cstacey@portlandmaine.gov> Thu, Sep 21, 2017 at 12:32 PM
To: Caura Newman <yellowcape@gmail.com>

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ndmaine.gov>

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