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CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

R-3 Residential Zone
Interpretation Appeal

DECISION

Date of public hearing: August 4, 2016

Name and address of Appellant: Stephen E. Mardigan
460 Baxter Blvd.
Portland, Maine 04103

Location of property under appeal: 31 Hersey Street (CBL 129 F014001)
34 Vannah Avenue (CBL 129 F013001)

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

Archie Grobki
0/610 Stephen Mardigan

Exhibits admitted (e.g. renderings, reports, etc.):

Application w/ exhibits
View of picture of properties
Picture of garage (Google Earth)

Findings of Fact and Conclusions of Law:

The Board derives authority to review orders, decisions, determinations and interpretations of the building authority pursuant to Section 14-472 of the land use code.

The Appellant appeals from the determination of the Zoning Administrator that the properties assessed as 31 Hersey Street and 34 Vannah Avenue are considered one lot for zoning purposes and that 31 Hersey Street may not be developed separately.

Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.

(a) Lots of Record.

Lots of record that meet the minimum standards provided below shall be considered buildable lots.

1. Lots of record as of June 5, 1957, may be considered a buildable lot in any residential zone provided the applicable yard dimensions can be met; provided that a minimum street frontage of forty (40) feet can be met, or to which a means of access has been previously approved by the city council as provided elsewhere in this article; and provided such lots have a minimum lot size of five thousand (5,000) square feet, or the applicable minimum lot size and frontage in that zone, whichever is less.
2. A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

...

5. Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).

Finding:

1. Appellant has demonstrated that the Interpretation of the Zoning Administrator, that the properties assessed as 31 Hersey Street and 34 Vannah Avenue are considered one lot for zoning purposes and that 31 Hersey Street may not be developed separately, was incorrect or improper.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

Decisions: (check one for each item)

___ Option 1: The Board finds that the Appellant has satisfactorily demonstrated that the Interpretation of the Zoning Administrator, that the properties assessed as 31 Hersey Street and 34 Vannah Avenue are considered one lot for zoning purposes and that 31 Hersey Street may not be developed separately, was incorrect or improper.

___ Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator, that the properties assessed as 31 Hersey Street and 34 Vannah Avenue are considered one lot for zoning purposes and that 31 Hersey Street may not be developed separately, was incorrect or improper.

Dated: 8-4-16

DMK - motion to
table to Sept. 15

2nd Eric Larsson
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Board Chair