Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

Jeff Levine, AICP, Director Marge Schmuckal, Zoning Administrator

TO:

Zoning Chair and Board Members

FROM:

Marge Schmuckal, Zoning Administrator

SUBJECT:

12-14 Alba Street Appeal

DATE:

January 30, 2014

I am addressing the Board to supplement the submitted appeal. The appellant has three areas of the R-5 zone requirements before the Board. The Practical Difficulties Variance defines the meanings of the dimensional standards outlined under this type of variance. Clearly "lot coverage" is listed as one of the dimensional standards allowed under a Practical Difficulty Variance. "Lot area" is also a listed dimensional standard. I have determined that the lot area per dwelling unit requirements result in a minimum required lot area. Therefore, the lot area per dwelling unit would be captured under the dimensional standards allowed for a Practical Difficulties Variance. I understand that "lot width" is not specifically listed under the dimensional standards for a Practical Difficulties Variance. However, I believe that lot width encompasses strong similarities and directly relates to setback requirements. I don't believe that the specific list is meant to prohibit other dimensional requirements that are similar and relate to the dimensional requirements listed. Therefore, I believe that the three dimensional requirements that are before the Board can all be heard under a Practical Difficulties Variance.

I have also attached a copy of the Ordinance from section 14-473(c)4.f. referring to specific variances that the Board is prohibited from granting. Please note that the prohibition clearly refers to *more than three (3) dwelling units*. This request is for three units and not more than three units. Therefore, if the Board votes to grant this appeal, it will not be in violation of the Ordinance.

I have also included documentation denoting the history of this property. The pre-1957 Assessor's cards show that the building had been used as a residential four (4) unit building. Further information implies that that use was maintained until a 1986 fire after which the building was vacated. The building remained vacated for at least three years and lost its nonconforming rights for the four dwelling units. There was an interpretation appeal that upheld the Zoning Administrator at that time concerning the lost rights. Later in 1989 a variance appeal was granted allowing two dwelling units. Those two units are maintained today in the front portion of the structure with the rear portion remaining empty.



City of Portland Code of Ordinances Sec. 14-473 Land Use Chapter 14 Rev.3-4-13

18, 1984, no variance shall be granted which would permit the alteration of a structure to accommodate any additional dwelling unit as a conditional use without meeting the requirements which would otherwise be a condition precedent to such conditional use treatment.

14-473 (c)4.f.

No variance shall be granted which would permit the alteration of an existing residential structure in an R-4 or an R-5 zone to accommodate (more) than three (3) dwelling units. No such variance shall be granted unless:

- 1. No additional unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
- No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;
- 3. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
- 4. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;
- 5. The building shall have been in existence prior to January 1, 1984;
- 6. A minimum of nine thousand (9,000) square feet of land area shall be required;
- 7. A minimum of four (4) on-site parking spaces shall be required;
- 8. A minimum of seventy-five (75) feet of street frontage shall be required; provided, further, before a building permit may be issued, site plan approval under article V of this chapter



City of Portland Code of Ordinances Sec. 14-473 Land Use Chapter 14 Rev.3-4-13

shall be required with the following additional review standards:

- (i) Any addition or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the structure;
- (ii) The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets;

provided, further, that no variance shall be granted with respect to any of the preceding additional requirements.

- g. No variance shall be granted from the minimum lot sizes set forth in section 14-433 for lots in the IR-1, IR-2 and I-B zones.
- h. No variance shall be granted from the requirements in Section 14-403.
- (d) Conditions on variances; variances less than requested. Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
- (e) Limitations on variances. No variance permitting the erection or alteration of a building shall be valid for a period longer than six (6) months, or such other time as may be fixed at

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CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS



12-14 Alba Street

MERRILL S. SELTZER Chairman

> JOHN C. KNOX Secretary

PETER F. MORELLI THOMAS F. JEWELL DAVID L. SILVERNAIL MICHAEL E. WESTORT CHRISTOPHER DINAN

April 21, 1989

Mr. Nicholas J. Sangillo 2 Clinton Street Portland, Maine

Dear Mr. Sangillo:

At the meeting of the Board of Appeals on Thursday evening, April 20, 1989, the Board voted by a vote of five members present to uphold the decision of the Building Inspection Services that the nonconforming use became abandoned one year after the closing by the City of the four-unit building in 1986 when the premises once again became vacant.

In a request for variance on the same agenda, you sought to obtain approval by the Board of Appeals for a change of use to recognize four apartment units on a lot containing only 5,500 square feet of land area. The City Zoning Ordinance requires a minimum of 3,000 square feet of land area per apartment in the R-5 Residence Zone in which the building is located.

The Board voted by a vote of four members opposed to one in favor to denv this request for a space and bulk variance to change the use of the building at 12-14 Alba Street and to recognize it as a four apartment building. We can not therefore comply with your application for a change of use permit,

Sincerely,

William D.H ---William D. Giroux

Zoning Enforcement Of Licer

Enclosures: Copies of Board's Decisions (2)

Merrill S. Seltzer, Chairman, Foard of Appeals -Joseph E. Gray, Jr., Director, Planning & Urban Development P. Samuel Hoffses, Chief, Inspection Services Kathleen Taylor, Code Enforcement Officer Warren J. Turner, Administrative Assistant Charles A. Lane, Associate Corporation Counsel

874-8300

389 CONGRESS STREET · PORTLAND, MAINE 04101 · TELEPHONE (207) 778-8491



ITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS



APPEAL AGENDA

MERRILL S. SELTZER Chairman

> JOHN C. KNOX Secretary

PETER F. MORELLI THOMAS F. JEWELL DAVID L. SILVERNAIL MICHAEL E. WESTORT CHRISTOPHER DINAN

The Board of Appeals will hold a public hearing in Room 209, City Hall, Portland, Maine on Thursday evening, April 20, 1989, at 7:00 P.M. to hear the following appeals:

1. UNFINISHED BUSINESS:

79 Allen Avenue, Timothy P. Flaherty, owner is requesting a change of use from a two-family dwelling to a sheltered group care facility for thirteen people at 79 Allen Avenue and located in the R-5 Residence Zone not allowed unless authorized by the Board of Appeals. Section 14.118.1.b of the zoning ordinance. This item has been postponed by vote of the Board of Appeals from the April 6, 1989 meeting.

2. NEW BUSINESS:

Interpretation Appeal:

12-14 Alba Street, Mr. Nicholas J. Sangillo, owner, is requesting a decision from the Board of Appeals to authorize four apartment units at the above location which is in the R-5 Residence Zone. The building has been vacant for more than a year and Inspection Services believes the nonconforming use has lapsed.

3. CONDITIONAL USE APPEAL:

Mr. Jeffrey Gray, Portland Manager of the American Red Cross, owners, are petitioning the Board of Appeals to authorize accessory offstreet parking (55 parking spaces) on land owned by the American Red Cross which is accessible from Ashmont Street in the R-5 Residence Zone, not allowed according to Section 14-344 of the City Zoning Ordinance.

4. Variance:

a. Space and Bulk - Section 14-473(c)1 of the Ordinance must be met by the following requests:

12-14 Alba Street, Mr. Nicholas J. Sangillo, owner. If the interpretation appeal is denied, Mr. Sangillo is requesting authorization of four apartment units for the building at 12-14 Alba Street, which has contained four apartments since he purchased the building in 1957. The building, which was subject to a fire in 1978, has been vacant since 1986.

191-B-15, End of Lassell Street, Brown Homes, owners are requesting a variance to reduce the parking requirements by 50 parking spaces for the proposed elderly project located in the vicinity of Lassell, Mitton and Powsland Streets and located in the R-5 Residence Zone. A total of 175 parking spaces is required according the the City Zoning Ordinance and 125 parking spaces would be provided if this variance is granted.

389 CONGRESS STREET · PORTLAND, MAINE 04101 · TELEPHONE (207) 775 5451



CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS



MERRILL S. SELTZER
Chalman

JOHN C. KNOX Secretary

PETER F. MORELLI THOMAS F. JEWELL DAVID L. SILVERNAIL MICHAEL E. WESTORT CHRISTOPHER DINAN

12-14 Alba Street

May 30, 1989

Mr. Nicholas J. Sangillo 2 Clinton Street Portland, Maine 04103

Dear Mr. Sangillo:

At the meeting of the Board of Appeals on Thursday evening, May 25, 1989, the Board voted by a unanimous vote of six members present to grant your request for a variance for the building at 12-14 Alba Street in the R-5 Residence Zone, which would enable the building to be converted to a two family dwelling, following the approval of a building permit.

A certificate of variance will be prepared to accompany this letter as an enclosure with the copy of the Board's decision. Your application for a building permit may now be processed. Please have the enclosed certificate of variance recorded within 30 days from the date of its approval at the Cumberland County Registry of Deeds, 142 Federal Street, in Portland.

Sincerely,

William D. Giroux

Zoning Enforcement Officer

Enclosures; Copy of Board's Decision

Certificate of Variance

CC: Merrill S, Seltzer, Chairman, Board of Appeals
Joseph E, Gray, Jr., Director, Planning & Urban Development
P, Samuel Hoffses, Chief, Inspection Services
Kathleen Taylor, Code Enforcement Officer
Charles A, Lane, Associate Corporation Counsel
Warren J, Turner, Administrative Assistant

CITY OF PORTLAND, MAINE **MEMORANDUM**



TO:

Jane Durgin, City Clerk

Warren Turner, Administrative Assistant-Inspection Services

May 31, 1989

FROM:

SUBJECT:

Report of Actions Taken at the Board of Appeals Meeting on May 25, 1989

Chairman Merrill Seltzer called the meeting to order at 7:00 P.M. on Thursday evening, May 25, 1989, in Room 209, City Hall, Portland, Maine. There were six members present. Mr. Christopher Dinan was absent.

Unfinished Business

Interpretation Appeal:

Corner of Island & Welch Streets, Peaks Island, William A. Bonn, owner, requested an interpretation appeal as to whether the Board would uphold the decision of the Code Enforcement Officer regarding possible conversion of the former Innes House to a two family dwelling. The Board voted by a unanimous vote of six members present to deny this appeal.

Conditional Use Appeal

Corner of Island & Welch Streets, Peaks Island, William Bonn, owner, was granted this appeal to permit a change of use from single to two family for the building formerly known as the Inness House at the above address by a vote of 6 to 0.

New Business

Conditional Use Appeal 1093 Washington Avenue, Mr. and Mrs. James Ascanio, owners, were granted their appeal authorizing a day care center for 20 to 24 children at the above address by a vote of 6 to 0 subject to the condition that adequate turn around space be provided.

Variance, Space and Bulk:

12-14 Alba Street, Mr. Nicholas J. Sangillo, owner, was granted his request by a unanimous vote of six members, for the building at 12-14 Alba Street allowing it to be occupied as a 2 family dwelling. Formerly a four unit apartment house, the lot contains only 5,500 square feet of land area in the R-5 Residence Zone.

The meeting was adjourned at 8:25 P.M.

Enclosures: Agenda for May 25th Copy of Decisions

seity Of Portland Specing PERMIT ISSUED 68/E/S Subdivision © Copyright GPCOG 1987 HUN I 1989 Smoke Detector Required Yes. 154,01 Date Date Subdivision: Yes / No Square Footage 3. Must conform to National Electrical Code and State Law. Site Plan Special Exception Permit Expiration For Official Use Only Ownership Size Yes Number of Fire Places 1、1人はいていないといれて Back MAP #_ 2 ۶ Gooode Street Frontage Req. . Approval of soil test if required Planning Board Approval: Yes. Deborah Zoning Board Approver: Yes. Shore and Floodplain Mgmt Other Date Approved 150 Required Setbacer: Front 2. No. of Tubs or Showers Ceiling Strapping Size BUILDING PERMIT APPLICATION 5. No. of Other Fixtures (Explain) L. Truss or Rafter Size 2. Sheathing Type 3. Roof Covering Type Service Entrance Size L. Ceiling Joists Size: Estimated Cost 4.000. 4. No. of Lavatories 4. Insulation Type 3. No. of Flushes 3. Type Ceilings._ 5. Ceiling Height: Conditional Use. First Signature of Applicant Heating: Type of Heat: CSUPPLIFT Received By 2 Pool Size: Signature of CEO Swimming Pools: Review Required: Inspection Dates. 4. Other District ValueStructure Plumbing Chimneys Electrical ->!ellow-GPCOG Celling Zoning Sc. Ptld. 04106 Roof: Š sheet rock walls 2 ę 767-3408 Please fill out any part which applies to job. Proper plans must accompany form. White Fax Assosor Sills must be anchored. Conversion - Explain interior renovations as per plan Spacing 16" O.C. 205 Sandy H.11, Rd. family Weather Exposure Lot Size 772-6072 Side(s) Athory Roleff TOWN OF Portland SUBCONTRACTORS COMPLETE ONLY IF THE NUMBER OF UNITS WILL CHANGE Span(s) Size Size So Prid # Stories: 2 Clinton Street Ptks. 04101 Type of User. # Of New Dwelling Units 12-14 Alba St Spacing Spacing. Span(s)_ Rear Size Size ż 28/0/5 1101 Hichland Ave. Micholas J. Sangillo SAFF Handy TO THE PROPERTY OF THE PARTY OF 5. Bridging Type: 6. Floor Sheathing Type: 4,000 LOCATION OP CONSTRUCTION 3. Lally Column Spacing CONTRACTOR, MARKET D-N abandoned X GS B Covering Type.
I if required. Residential Buildings Only: 6. Corner Posts Size 9. Siding Type 10. Masonry Materials 2. Set Backs - Front
3. Footings Size 4. Foundation Size 8. Sheathing Type, 7. Other Material: . Insulation Type 11. Metal Materials 4. Header Sizes_ 1. Studding Size. L. Studding Size 2. No. windows. "der Sizes Building Dimensions L 1. Type of Soil: ### JEH 1011 > 2. Girder Size L. Jorsts Size Est. Construction Cost: 3. Na. Doors 1. Sills Size: 5. Bracing: Of Dwelling Units 5. Other Exterior Walls: Interior Walls: ADDRESS-Address Owner.