



Planning &amp; Urban Development Department

*Jeff Levine, AICP, Director*

*Ann Machado, Zoning Administrator*

July 17, 2015

Koharig Saribekian  
31 Brookside Road  
Portland, ME 04103

Re: 31 & 35 Brookside Road – 158-A-006, 010 & 026 (the "Property") – R-3 Residential Zone and Shoreland Overlay Zone – illegal structure and Shoreland zoning violation

Dear Ms. Saribekian,

It has come to the attention of this office that you have taken actions on this property that are in violation of the City of Portland's Land Use Ordinance. The property is located within the R-3 Residential zone and with a Shoreland Overlay Zone.

The first violation is that you have erected a structure without a permit. I have attached a picture of the "pergola" and "deck" structure that was built below your house (Exhibit A). There is no permit in our files for this structure. Since there is not a permit, the structure is not legal. I am also concerned that this structure may be built within seventy-five feet of the highest annual tide or upland edge of the coastal wetland within the Shoreland Zone. § 14-449(a)(1) of the Land Use Ordinance states that "All principal and accessory structures shall be set back at least seventy-five (75) feet from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone." You need to bring you property into compliance. You need to apply for an after the fact building permit for this structure. If it is located within the seventy-five foot setback, you will not be able to permit it after the fact and it will have to be removed. As part of the submittal requirements for this building permit you will need to include a survey that is stamped by a professional surveyor which includes the location of the seventy-five foot setback and the structure. You have thirty days from the date of the letter to apply for the building permit or remove the structure.

The second violation relates to the "clearing of vegetation" within the Shoreland Zone. § 14-449(c)(4)(a) states that a buffer strip of vegetation shall be preserved, except where clearance is required for development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from the normal high-water or upland edge of a coastal wetland, stream or tributary stream within a shoreland zone". In this section vegetation is defined as "all live trees, shrubs and other plants including without limitation, trees both over and under 4 inches in diameter measured at 4 ½ feet above ground level". The section goes on to say that "a well distributed stand of trees and other vegetation" must be maintained. Other vegetation is defined as "existing vegetation under three (3) feet in height and other ground cover". Finally the section also states "existing vegetation under three (3) feet in

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

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height and other groundcover, including leaf litter and the forest duff layer, shall not be cut". A copy of this Shoreland Zoning Ordinance is attached (Exhibit B).

It appears that you have violated this section of the ordinance by removing vegetation as well as replacing some native vegetation with nonnative vegetation (Exhibit E). You need to bring your property into compliance. To achieve this you will need to replant the areas where vegetation was removed along the bank of the Fall Brook within the seventy-five foot buffer strip. You have thirty days from the date of this letter to submit a Site Plan Application to the Planning and Urban Development Department. As part of the Site Plan Application, you will need to provide a stamped survey that shows all site features. The seventy five foot setback from the highest annual tide must be located as well as the existing planted areas and any cleared areas. You also need to submit a planting plan that shows the native plants you will replant to maintain the vegetative buffer. I have included a DEP Issue Profile sheet titled "Clearing Vegetation in the Shoreland Zone" (Exhibit C) and a DEP Information Sheet titled "Guidelines for Restoration Plan for Shoreland Clearing Violations" (Exhibit d). Jeff Tarling, the City's arborist has offered to meet to discuss possible restoration options. Mr. Tarling can be reached at 874-8820.

You have the right to appeal my decision concerning this matter. If you wish to exercise your right to appeal, you have thirty days from the dated of this letter in which to appeal. If you choose to file an appeal, please contact this office for the necessary paperwork.

Yours truly,

A handwritten signature in black ink, appearing to read "Ann B. Machado".

Ann B. Machado

Zoning Administrator

Planning and Urban Development Department

City of Portland Maine

[amachado@portlandmaine.gov](mailto:amachado@portlandmaine.gov)

207.874.8709