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**18 and 24 Sewall Street**

1 message

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**Ann Machado** <amachado@portlandmaine.gov>

Mon, Jul 22, 2019 at 4:13 PM

To: lucia@danandersonrealestate.com

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Lucia -

I'm sorry that it has taken me so long to get back to you after our meeting on July 15, 2019. The meeting was a followup to the pre-application meeting on July 10, 2019.

The property in question consists of two assessing lots, 18 Sewall Street, 189 A003 and 24 Sewall Street, 189 A004. According to the assessor's page as of April of 2019, they were both owned by Sarah Kate Green and Wilhelm Scherer. 18 Sewall Street is vacant and 24 Sewall Street has a single family home that was built in 1929. The property is located in the Residence Professional Zone. The question is whether the vacant lot at 18 Sewall Street can be developed as a single family home under separate ownership.

The dimensional requirements of this zone are outlined in section 14-149. If it is a proposed residential use the section states: "Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone". The nearest residential zone is the R-5 Residential Zone. The dimensional requirements for this zone are outlined in section 14-120. Subsection (a) addresses the minimum lot size.

*Residential: Six thousand (6,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. section 4807, or the applicable zoning lot size, whichever is larger.*

Each of the assessing lots are 5,000 square feet, so they do not meet the minimum lot size of 6,000 square feet for a residential use. Section 14-333(a) states:

(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.*

Part of the first sentence under (a) states "...may be considered a buildable lot **in any residential zone**...". 18 and 24 Sewall Street are located in the Residence Professional Zone which is not a residential zone. The purpose of the Residence Professional Zone is stated in section 14-146.

*The purposes of the R-P residence-professional zone are:*

*(a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or*

*(b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones. (Ord. No. 291-88, 4-4-88)*

The Residence Professional Zone is a mixed use zone that allows both residential and "low-intensity business uses". It is not purely a residential zone and therefore section 14-433(a) cannot be used to build a separate single family home under separate ownership on the vacant lot at 18 Sewall Street.

The question also came up about using section 14-120(b) in the R-5 Residential Zone to develop the lot separately at 18 Sewall Street. The first sentence of this section states:

*(b) Small residential lot development: Single family homes may be built on small lots located in the R-5 and may use the dimensional requirements below if one of the following conditions is met:*

18 Sewall Street is not located in the R-5 Residential, zone therefore this section cannot be used.

Section 14-47 defines a lot as:

*Lot: A parcel or area of land that is designated as an individual unit for use, development or ownership that is either a) a lot of record, recorded in the Cumberland County Registry of Deeds; or b) a contiguous combination of such lots of record under common ownership; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.*

According to the assessor's page for this property, the two lots were under common ownership as of April 2019. Since the minimum lot size in the Residence Professional zone is 6,000 square feet [section 14-149(a)] and neither assessing lot meets the minimum lot size on its own, the two lots have merged under subsection (b) of the definition of lot.

The last question that came up at the meeting was whether a separate single family dwelling could be built on the one lot that already has a single family home. The R-5 Residential Zone allows single family homes and two family homes [section 14-117(a)] The land area per dwelling unit requirement is 3,000 square feet for two dwelling units on a property [14-120(a)(2)]. The lot is 10,000 square feet, so a separate single family dwelling could be built on the lot as long as it can meet all the minimum yard dimensions listed in section 14-120(a)(4). The two single family dwelling units would need to be held under the same ownership as the 10,000 square foot lot.

This email serves as the zoning administration's determination that assessing lot 189 A003 cannot be developed as a separate lot under separate ownership. You have the right to appeal this decision pursuant to section 14-472 within thirty days of the date of this email. If you do not appeal, you may be barred from challenging my findings in the future. I have attached the Interpretation Appeal Application and a PDF that explains the application process.

Please let me know if you have any questions.

Thank you.

Ann

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## 2 attachments

 **Application - Interpretation Appeal.pdf**  
138K

 **Application Instructions For All Appeals.pdf**  
133K