



Permitting and Inspections Department  
Michael A. Russell, MS, Director

Ann Machado, Zoning Administrator

March 7, 2017

Yuri Tanaka & David Harrigan  
5 Council Tree Lane  
Wolfboro, NH 03894

RE: 28 Powsland Street, Portland, Maine, CBL: 190-G-012 & 30 Powsland Street, Portland, Maine, CBL: 190-G-013 (the "Property")

To Whom It May Concern:

I am in receipt of your request for a zoning interpretation for the Property. The Property is comprised of two assessing lots. Lot 190-G-013 is developed with a single family home and lot 190-G-012 is currently vacant. Both lots are owned by Tanaka Yuri and David Harrigan and are abutting. You would like to know if under Chapter 14 of the City of Portland Code of Ordinances if the two lots can be held under separate ownership.

The Property is located in the R-5 Residential zone. Section 14-120(a)(1)(a) addresses the minimum lot size for a residential use in the zone. It says:

*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.*

The developed lot is 3142 square feet and the undeveloped lot is 5,000 square feet, so neither lot meets the minimum 6,000 square feet requirement. Section 14-433(a) states "Lots of record that meet the minimum standards provided below shall be considered buildable lots". Sub section 1 states:

*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.*

This section applies to vacant lots that have not been developed. A title search shows that Lot 190-G-012 was described as a lot in a deed (Book 2108, Page 31) recorded at the Cumberland County Registry of Deeds on October 17, 1952 which demonstrates that the lot was a lot of record as of June 5, 1957. Based on a "Boundary Survey for Land Located at: 30 Powsland Street, Portland, Maine 04102, Land Owned by: Yuri Tanaka & David Harrigan" prepared by Richard W. Eaton, Professional Surveyor, R.W. Eaton Associates Land Surveying and Real Estate, 58 Pleasant Street, Westbrook, Maine 04092 on February 6, 2017 (the "Survey"), the lot has fifty feet of frontage on Powsland Street, so the lot meets the minimum requirement of 40 feet of street frontage. The Survey shows that the lot has 5,000 square feet of land area which also meets the minimum requirement. Under section 14-120(a)(4) the minimum front and rear yard setback is twenty feet and the minimum side yard setback for a one story building is eight feet. As long as

these dimensions can be met, it appears that Lot 190-G-012 can be a buildable lot under section 14-433(a).

Research of the files for the property located at 30 Powsland Street, 190-G-013 shows that a building permit was applied for in 1916 to build a 24' x 30', one and one half story, single family home on lot 88, Plan Book 9, Page 121. This is the only building permit we have in our records. The current Land Use Ordinance went into effect on June 5, 1957. The pre-1957 assessor's record shows a single family home, 24' x 30' with a 7' x 24' front porch and rear 6' x 4' enclosed porch and an 8' x 4' deck on a 3142 square foot lot. Section 14-381 of Chapter 14 states:

*Any lawful use of buildings, structures, premises or parts thereof, existing on June 5, 1957, and made nonconforming by the provisions of this article or any amendment thereto may be continued although such use does not conform with the provisions of this article or amendment thereto.*  
(Code 1968, § 602.17.A)

Since this building was built before 1957 and the current footprint and current lot size existed as of June 5, 1957, the building and lot are legally nonconforming ("grandfathered") and therefore the property is in compliance and can be sold as a separate lot.

I trust the information provided is sufficient. Please contact me at (207) 874-8709 with questions or concerns. This interpretation is based on the information provided and the current City of Portland Code of Ordinances. It is not binding on the City of Portland in any future decisions.

Sincerely,



Ann B. Machado

Zoning Administrator

Permitting and Inspections Department

City of Portland, Maine

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