Inspections Division
Date: 10/01/15

Portland, Maine | Yes. Life's good here.

Jeff Levine, AICP
Director, Planning & Urban Development Department

Carol Morissette
Residential Design Studio
via email to carol@resdesstudio.com

August 20, 2015

Re: Request to Extend Lawfully Nonconforming Status at 313 Warren Avenue

Dear Ms. Morissette:

You have requested that, as per Section 14-387 of the Land Use Ordinance, I extend the timeframe for which a lawfully nonconforming residential unit be retained. The building in question is a single family dwelling unit at 313 Warren Avenue. That building is nonconforming with respect to use. Under the default circumstances, if that building was not reoccupied for residential use within two years, the nonconforming use would no longer be permitted. You have requested that timeframe be extended under the clause in that section that permits extending the lawfully nonconforming status for up to an additional five years in a case of foreclosure or similar circumstances. You have specifically requested an extension until May 2016, which would be an extension of 2 years and 11 months, by your records, from the current abandonment date of June 2013.

I have reviewed the materials you provided and authorize an extension of the lawfully nonconforming use for the timeframe you have requested. As required under the ordinance, I find that the "the extension is for good cause and the minimum length considered necessary to resume the legally nonconforming use." There is every indication that the property had extenuating circumstances related to mortgage transfers and the ultimate acquisition of the mortgage by the Federal Home Loan Mortgage Corporation.

In order to finalize this extension, please forward any backup documentation you have related to the timeframe outlined in your letter, in particular the records showing the transfers of mortgages that strongly imply financing difficulties.

Sincerely,

Jeff Levine
Director

cc: Ann Machado, Zoning Administrator

Inspections Division
Date: 10/01/15

RESIDENTIAL
DESIGN STUDIO

August 13, 2015

Mr. Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, ME 04101

Dear Jeff,

The foreclosed property located at the rear lot of 313 Warren Avenue was purchased by my client, Glenn Morse, this past Friday. This property had been abandoned, ransacked, fallen into disrepair, and is in dire need of renovation before it can be occupied, again. It is our request that this property be granted its original, non-conforming residential use status, through Section 14-387 of the Land Use Code, allowing us until May 16, 2016 to complete renovations and acquire a Certificate of Occupancy from the City.

The property is located in the B-4 Zone, which does not allow residential use. This house was built in 1910, according to the Assessor's Office. Building permit applications, inspection reports, and deed research has proven that it has consistently been a residential use. It is important to note that the City's records for 313 Warren Avenue contain two properties, a front and rear lot, originally owned by family members so even the last names are duplicated. Many permits do not differentiate which property (front or rear) or owner (Dibiase brother) is affected, so the following property history reflects very conservative assumptions regarding the rear lot, noted with specific dates only when the rear lot is specifically mentioned or determined.

History of Use - 313 Warren Avenue

2010	Construction of single family residence, per Assessor's Office
1927-1938	Files reference residential-type projects, such as a 1-car garage, chicken house, new foundation, and an addition to connect the two houses. It is unclear whether the front or rear lot is affected. It is also unclear as to whether the two houses were actually connected in 1938, as a separate permit referencing a new foundation is also mentioned, along with continued reference to two separate houses.
01/27/38	Specific mention of rear house, owned by Santo Dibiase, regarding improperly constructed floor supports and their correction.
1940-1945	Files reference residential-type projects, including a heating system for a "dwelling", glassing-in an existing front porch, and another garage and chicken house.
09/10/45	Fiore Dibiase relocated a 1-car garage from front lot to the rear lot, with specific reference to a "single family dwelling unit".

90 Woodford Street Portland, Maine 04103 T 207.699.4184 C 207.671.7965

1949-1970 Files reference residential-type projects, including a hot water tank, second floor plumbing, an electrical permit for a clothes dryer, and yet another chicken house.

12/22/77 Fiore Dibiase received a complaint regarding towed and stored cars, with specific reference to a "dwelling".

1981 Another plumbing permit was issued for the owner who "lives there", but it is unclear whether this is the front or rear lot.

At some point, the building on the front lot of 313 Warren Avenue gave up its legal non-conforming residential use status when it became a Day Care facility. The rear lot was not associated with that Day Care use, in any way.

Below is a recent history of the property's ownership and assumed occupancy, based on the Cumberland County Registry of Deeds and Inspections Complaints the City has received:

Recent History of Occupancy & Ownership - 313 Warren Avenue

02/15/07 Mortgage issued by American Home Mortgage to Ronald and Prescilla Graham

07/08/09 Mortgage assigned from Countrywide Home Loans to BAC Home Loans

06/28/11 BAC Home Loans foreclosure on mortage held by Grahams

04/10/12 Complaint - Portland Inspections - regarding removal of debris; violations corrected within 7 days.

11/29/12 Complaint - Portland Inspections - trash in yard, premises unsecure; premises secured by 12/10/12 but other violations not corrected until 04/10/13.

12/14/12 Mortgage is assigned from BAC Home Loans to Nationstar Mortgage

03/17/14 Foreclosure and sale proceedings begun by Nationstar Mortgage

05/02/14 Nationstar Mortgage foreclosure on mortgage held by Grahams

08/26/14 Municipal lien certificate issued for sewer. *(This suggests that the sewer was still in service until the 2014 foreclosure.)*

12/22/14 Nationstar Mortgage sells property to Federal Home Loan Mortgage Corporation.

08/07/15 Glenn Morse purchases property from Federal Home Loan Mortgage Corporation.

Although the Grahams appear to have retained ownership of the building until the most recent foreclosure in May of 2014, the Inspections Complaints raise concern that the abandonment may have happened well in advance of the last foreclosure, as is typical to assume. Given the limited information we have about the exact date of abandonment, with your approval, we are comfortable assuming that the building may have been vacated after the initial foreclosure in June of 2011, even though the sewer appears to have been in use until (or near) the May 2014 foreclosure.

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Per Section 14-387 of the Land Use Code, this property's legally non-conforming residential use is eligible for an extension of the 24-month discontinuance of use, up to an additional five years, with your approval. As such, we are requesting that approval be granted to extend the allowed discontinuance of use for an additional 35 months, until mid-May of 2016. This allows for enough time for the new owner to provide water lines from the street and natural gas service, reestablish electrical service, and stabilize the building with a new heat source, new windows, insulation, interior finishes, minor rearrangement of interior spaces, and long-overdue maintenance of the overall building so that it can continue to be used as a single-family dwelling unit.

If I can be of any assistance regarding the property's history or timeline of ownership, please do not hesitate to contact me via email or at 207-671-7965.

Thank you for your time in considering this request.

Sincerely,

Carol A. Morrissette, R.A.

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