



Planning &amp; Urban Development Department

Jeff Levine, AICP, Director  
Marge Schmuckal, Zoning Administrator

August 12, 2014

Mike Delany  
208 Marston RD  
Richmond, ME 04357

RE: 1706 Forest Avenue – 309-G-003 thru 7 - R-3 Residential Zone

Dear Mr. Delany,

As per our phone conversation on this date, I am following up with a letter. The property located at 1706 Forest Avenue is located in an R-3 residential zone. The new business use located on site for U-Haul rental and material sales is prohibited in the R-3 zone (section 14-89). Business uses are prohibited in the R-3 zone. The Board of Appeals is prohibited from granting a business use in a residential zone as stated in section 14-473(c)4. The U-Haul trucks rental and service must be removed immediately from the premises.

Currently the legal use of the property is a legal nonconforming retail use on the first floor with one dwelling above. The retail use is allowed in this R-3 zoning because it has existing prior to the Land Use Zoning Ordinance and may continue as a legal nonconforming use. If the retail use is vacated for more than a year, then the retail use will be extinguished and there will be no rights to re-establish that use in the future.

Based upon our telephone conversation, it is understood that the business and trucks will completely removed from this property by Monday August 18, 2014. A re-inspection will be made on August 18, 2014 to insure compliance with the Ordinances.

Sincerely,

A handwritten signature in black ink that reads "Marge Schmuckal". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Marge Schmuckal  
Zoning Administrator  
City of Portland, Maine

Cc to: Kevin Fletcher – kevinfletcher@masiello.com  
Scott Lalumier – scottl@mecapllc.com

**Marge Schmuckal - Re: 1706 Forest Ave, Portland**

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**From:** Kevin Fletcher <kevinfletcher@masiello.com>  
**To:** Marge Schmuckal <MES@portlandmaine.gov>  
**Date:** 7/29/2014 1:15 PM  
**Subject:** Re: 1706 Forest Ave, Portland  
**CC:** Scott Lalumiere <scottl@mecapllc.com>

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No problem. I will get it taken care of.  
Thanks for your help.

On Tue, Jul 29, 2014 at 1:10 PM, Marge Schmuckal <[MES@portlandmaine.gov](mailto:MES@portlandmaine.gov)> wrote:

Hi Kevin,

The R-3 zone is a single family residential zone, No business uses are allowed in the R-3 zone. The only reason why the 1st floor retail use is allowed is because the use has been there for years, prior to the current ordinances. The retail use is considered legally nonconforming. It can not be expanded inside or outside. The Zoning Board of Appeals does not have the right to grant any variances for business uses in residential zones. The R-3 zone is on-line in it's entirety for anyone to read at any time. The bottom line is that the U-Haul use is totally illegal. No permits were ever issued for that use. That use must be removed immediately. At the counter today, Scott promised me that the U-Haul business would be removed by the end of this week.

I hope this helps you,

Marge Schmuckal

Zoning Administrator

>>> Kevin Fletcher <[kevinfletcher@masiello.com](mailto:kevinfletcher@masiello.com)> 7/29/2014 11:56 AM >>>

Marge,

I understand from Scott that the tenant at the property is not allowed to have Uhaul at that location per City Code and Zoning.

I have no problem clearing this up for you and having the tenant remove them. Can you please email me a copy of the allowed uses for that zone so I may share it with the tenant? I will go see him today to rectify this.

--

**Kevin Fletcher, CCIM**

**The Masiello Group Commercial Associates**

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