



Planning & Urban Development Department

Jeff Levine, AICP, Director

Marge Schmuckal, Zoning Administrator

TO: ZONING BOARD CHAIR AND MEMBERS

FROM: MARGE SCHMUCKAL, ZONING ADMINISTRATOR

SUBJECT: INFORMATION CONCERNING THE LEGALIZATION OF NONCONFORMING DWELLING UNITS

DATE: FEBRUARY 27, 2014

Section 14-391 concerning the Legalization of nonconforming dwelling units went into effect in March of 24, 2004. The purpose of the Ordinance is to legalize illegal units that had never been approved by permits. The theory is to legalize illegal units that have been in place prior to April 1, 1995 which were not created by an existing building owner. The City Council did not want to reward the building owner who created the illegal units. The building must pass compliance with the Housing Code and the National Fire Protection Association (NFPA) Life Safety Code Prior to issuing the application request.

Every application is also subject to required notification to owners of abutting properties as well as owners of properties situated within 300 feet of the structure being reviewed. Any objection must be submitted in within ten (10) days of the notice sent to them.

If the applicant submits evidence that satisfies all the requirements, and both the office of Inspection Services and the Fire Prevention Bureau have certified that the nonconforming unit(s) conform with the applicable codes, and no person entitled to notice has placed an objection within 10 days, then the Zoning Administrator is able to issue the application to legalize the nonconforming unit.

When the Zoning Administrator cannot approve an application based upon the lack of evidence, or a timely objection is received by a notified person, the application is subject to a conditional use appeal for a final decision. Our office received an objection to the application. Therefore this conditional use appeal is before you for consideration.



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*Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator*

September 12, 2013

Lucas Theriault
125 Sherwood Street
Portland, ME 04103

Re: 125 Sherwood Street – 428 A003 – R-5 Residential Zone -- Permit #2013-01303
Legalization of Nonconforming Dwelling Unit

Dear Mr. Theriault,

I'm writing this letter to check in with you regarding your application (#2013-01303) to legalize a nonconforming dwelling unit at your property at 125 Sherwood Street. As you know both Code Enforcement Officer George Froehlich and Fire Prevention Officer Roland Pinette inspected your property on July 10, 2013 and found numerous Housing Code and Life Safety Code violations. In order for you to pursue the legalization of the third unit, you need to address all the violations that were found. You sent me an email on August 7, 2013, stating that you were in the process of hiring an architect to address all the code violations. At this point we have not received a building permit to complete the work that needs to be done to bring the building into compliance as a three family. At this point I am wondering if you are still pursuing the permit to legalize the nonconforming unit. If you are, can you give me an idea of when you will submit the building permit to correct the violations?

If you do continue to pursue the legalization of the nonconforming dwelling unit permit, I want to remind you that a neighbor has objected to your application. Since our office received the objection, once the work is complete, you will need to file a Conditional Use Appeal to appear before the Zoning Board of Appeals. You must file the appeal within thirty days of Building and Fire signing off on the building meeting the Housing and Life Safety Codes.

Please feel free to contact me if you have any questions.

Yours truly,

Ann B. Machado
Zoning Specialist
(207) 874-8709

Cc. file