

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Peter Coyne
Philip Saucier-chair
Deborah Rutter
Jill E. Hunter
Gordan Smith-secretary
William Getz
Sara Moppin

July 27, 2009

Jonathan L. Goldberg
Mittel Asen, LLC
85 Exchange Street
PO Box 427
Portland, ME 04112

Daniel L. Cummings
Norman, Hanson & DeTroy, LLC
415 Congress Street
PO Box 4600
Portland, ME 04112

RE: 38 Torrington Avenue, Peaks Island
CBL: 084 S006
ZONE: IR-2

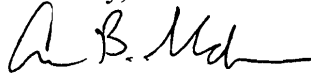
Dear Attorney Goldberg & Attorney Cummings:

As you know, at the July 16, 2009 meeting, the Zoning Board found by a vote of 6-0 that the Ashton's building permit application does not meet the requirements of section 14-436(a).

Enclosed please find a copy of the board's decision.

Should you have any questions please feel free to contact me at 207-874-8709.

Sincerely,



Ann B. Machado
Zoning Specialist

CC: file

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk
From: Marge Schmuckal, Zoning Administrator
Date: July 28, 2009
RE: Action taken by the Zoning Board of Appeals on July 16, 2009.

Members Present: Philip Saucier (chair), Gordon Smith (secretary), Deborah Rutter, Jill Hunter, William Getz, and Peter Coyne.

Member Absent: Sara Moppin

1. New Business:

A. Interpretation Appeal:

38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a). **The Board found by a 6-0 vote that the building application did not meet the requirements of section 14-436(a).**

***Members Philip Saucier and Peter Coyne left after the first appeal. Members Gordon Smith, Deborah Rutter, Jill Hunter, and William Getz were present for the duration of the meeting.**

B. Practical Difficulty Variance Appeal:

16 Whitehead Street, Peaks Island, Thomas and Barbara Kipp, owners, Tax Map 084, Block N, Lot 004, IR-2 Island Residential Zone: The appellants are seeking a variance to keep the 6' x 8' enclosed rear entry that was built without a permit. The appellants are requesting a variance for the right side setback from a required 20' to 11' [section 14-145.11(c)(3)]. The appellants are also requesting a variance for the maximum allowable lot coverage of 20% [section 14-145.11(d)]. The lot is 4,109 square feet. The footprint of the building with the 6' x 8' enclosed rear entry is 1,102 square feet which covers 26.8% of the lot. Representing the appeal is Jonathan Goldberg, Esq. **The Board voted 4-0 to grant the Practical Difficulty Variance Appeal.**

C. Conditional Use Appeal:

47 Runnells Street, Debra L. R. & Chad M. Flynn, owners, Tax Map 177, Block A, Lot 010, R-5 Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a family daycare/nursery school at her home for 8-10 children. Representing the appeal is the owner, Debra Flynn. **The Board voted 4-0 to grant the Conditional Use Appeal.**

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Issuance of Building Permit in IR-2 Zone

DECISION

Date of public hearing: July 16, 2009

Name and address of applicant: Horizon Builders for Richard & Patricia Ashton
PO Box 802
Portland, ME 04104

Name and address of appellant: Alfred Aydelott & Adrienne Giske
36 Oak Avenue
Peaks Island

Donna Marston
38 Oak Avenue
Peaks Island

Claire Filleittaz & Monique Levesque
13 Greenwood Street
Peaks Island

Location of property under appeal: 38 Torrington Avenue
Peaks Island

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

DAVID
~~Jonathan~~ Goldman, Esq. Representing owners (Ashtons)
BILL CHILDS, Horizon Builders, Portland (Ashtons)
Jonathan Goldberg, Esq. for Appellants

Exhibits admitted (e.g. renderings, reports, etc.):

Procedural History:

The Board first heard this appeal on November 13, 2008 wherein it denied the appeal and upheld the issuance of a building permit to Richard and Patricia Ashton to enlarge the second floor of their home. The appellants appealed the Board's decision on October 16, 2008. On May 26th, the Superior Court issued an Order in which it vacated the Board's decision and remanded the case back for further proceedings. In sum, the Court found that the Board improperly applied section 14-436(b) of the City Code and should have applied section 14-436(a). The Court has remanded the case back to the Board for further fact-finding pursuant to Section 14-436(a).

Findings of Fact and Conclusions of Law:

The application under review is for a building permit to expand a single family residence located at 38 Torrington Avenue. The proposed increase in floor area to the second floor is 464.14 sq. ft.

Existing non-residential and residential principal structures which are nonconforming as to any area and/or yard requirements and are lawfully nonconforming as to land area per dwelling unit may be enlarged within the existing footprint subject to the following provisions:

1. The floor area of the expansion shall be limited to no more than fifty (50) percent of the first floor footprint. (In footnote 5 of the Court's Order, it states that the Board should clarify the ambiguity in its prior written decision regarding which level of the home is in fact the "first floor.")

Satisfied ☒

Not Satisfied ☐

Reason and supporting facts:

There is no evidence or allegation that the City made a mathematical error in determining that the Addition constituted less than 50% of first floor footprint. The calculation was made using the square footage of the first floor and not the basement.

2. The additional floor area shall be created in the uppermost floor by the use of dormers, turrets or similar structures.

Satisfied ☐

Not Satisfied ☒

Reason and supporting facts:

The additional floor area was not created by dormers, turrets or similar structures, but rather by the addition of an additional story of habitable space. The additional story was created with perimeter walls of full height rather than roof protrusions such as dormers.

3. The additional floor area provides the minimum height required for habitable space.

Satisfied _____ Not Satisfied ✓

Reason and supporting facts:

The additional space exceeded the minimum height requirement (7') by code. The ordinance limits dormers, etc. to the minimum ceiling height and no higher.

4. The extension preserves the existing roof configuration to the maximum extent possible.

Satisfied ✓ Not Satisfied _____

Reason and supporting facts:

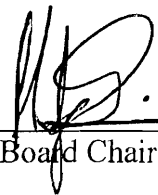
The new roofline is substantially similar to the prior roofline in terms of pitch + configuration.

Decision: (check one)

☐ Option 1: The Board finds that the application meets the standards set forth in Section 14-436(a) of the Portland City Code.

☒ Option 2: The Board finds that the application does NOT meet the standards set forth in Section 14-436(a) of the Portland City Code.

Dated:



Board Chair

O:\OFFICE\FORMS\Interpretation Appealbuildingpermitashon2

Members Present: Philip Sauerer - Gordon Smith - Bill Getz -
CITY OF PORTLAND, MAINE Jill Hunter - Peter Cagne -
ZONING BOARD OF APPEALS Deborah Rutter
Absent - SARA Moppin
APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 16, 2009 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

called to order: 6:30 pm

1. New Business:

A. Interpretation Appeal:

6-0
Application
The building
Application
was denied
cause it does
NOT meet 14-436(a)

38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a).

B. Practical Difficulty Variance Appeal:

Grant - 0
4-0

16 Whitehead Street, Peaks Island, Thomas and Barbara Kipp, owners, Tax Map 084, Block N, Lot 004, IR-2 Island Residential Zone: The appellants are seeking a variance to keep the 6' x 8' enclosed rear entry that was built without a permit. The appellants are requesting a variance for the right side setback from a required 20' to 11' [section 14-145.11(c)(3)]. The appellants are also requesting a variance for the maximum allowable lot coverage of 20% [section 14-145.11(d)]. The lot is 4,109 square feet. The footprint of the building with the 6' x 8' enclosed rear entry is 1,102 square feet which covers 26.8% of the lot. Representing the appeal is Jonathan Goldberg, Esq.

C. Conditional Use Appeal:

Granted
4-0

47 Runnells Street, Debra L. R. & Chad M. Flynn, owners, Tax Map 177, Block A, Lot 010, R-5 Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a family daycare/nursery school at her home for 8-10 children. Representing the appeal is the owner, Debra Flynn.

D. Conditional Use Appeal:

Granted
4-0

90 Crescent Avenue, Great Diamond Island, Kathy Sue & Douglas Roberts & Nancy Jo Connolly, owners, Tax Map 083A, Block E, Lots 007, 008 & 010, IR-2 Island Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-145.9(a)(1) requesting that an accessory dwelling unit be added to their single family dwelling. Representing the appeal are Nancy Jo Connolly and Attorney Jim Cloutier.

2. Other Business:

3. Adjournment:

9:30 pm

members
present

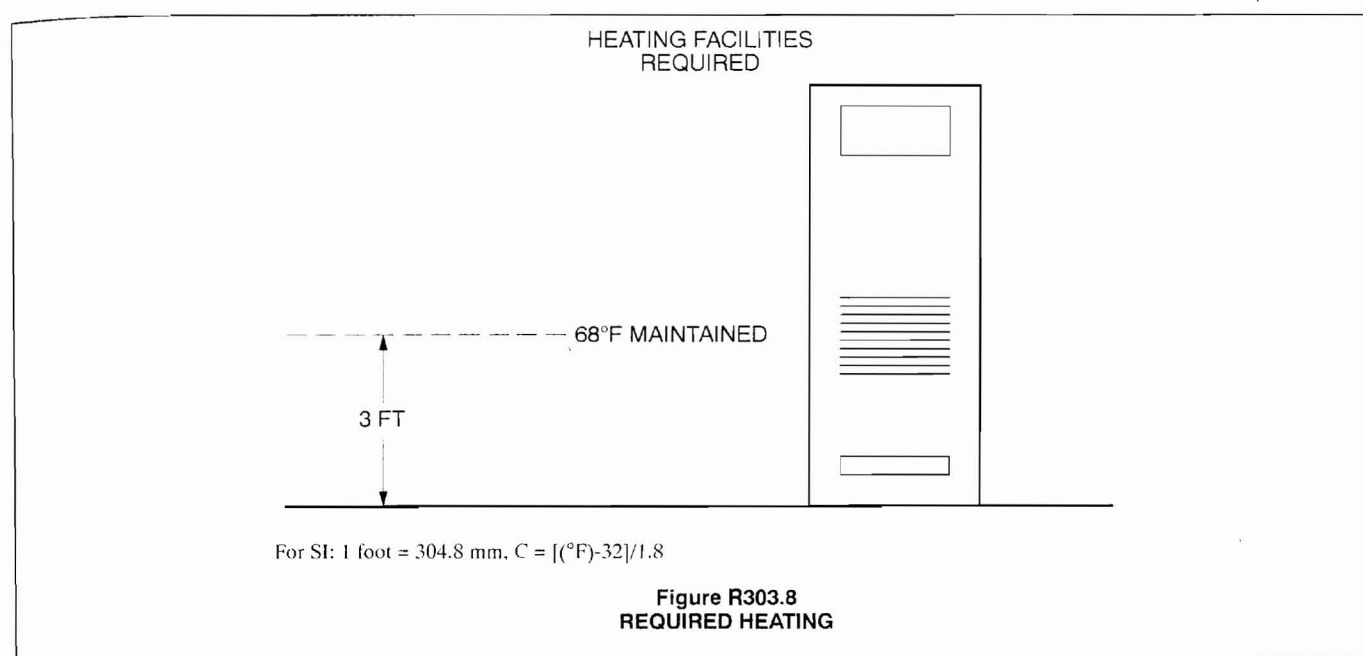
Gordon
Smith

Deborah
Rutter

Bill Getz

Jill Hunter

[Signature]



SECTION R304 MINIMUM ROOM AREAS

R304.1 Minimum area. Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet (11.2 m²) of gross floor area.

- ❖ The interior living environment is affected by a number of issues. Among these are the size of the room, tightness of construction, ceiling height, number of occupants and ventilation. These all interact and impact the interior living conditions including odors, moisture, and disease transmission. The IRC regulates room sizes to assist in maintaining a safe and comfortable interior environment. See Commentary Figure R304.1. At least one habitable room must be at least 120 square feet (11.2 m²) of gross floor area. Since the definition of habitable space in Section R202 includes rooms used for living, sleeping, eating, or cooking, any one of these rooms can be used to meet the requirement.

R304.2 Other rooms. Other habitable rooms shall have a floor area of not less than 70 square feet (6.5 m²).

Exception: Kitchens.

- ❖ One habitable room must comply with the provisions of R304.1. The remainder of the habitable rooms except kitchens are required to have a floor area of 70 square feet (6.5 m²). Kitchens are exempt from the minimum floor area requirement.

R304.3 Minimum dimensions. Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

Exception: Kitchens.

- ❖ Except for kitchens, all habitable rooms are required to have a minimum horizontal dimension in any direction of at least 7 feet (2134 mm).

R304.4 Height effect on room area. Portions of a room with a sloping ceiling measuring less than 5 feet (1524 mm) or a furred ceiling measuring less than 7 feet (2134 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room.

- ❖ In a room with a sloping ceiling, any portion of the room with a vertical ceiling height of less than 5 feet (1524 mm) from the finished floor does not provide the minimum required floor area for habitation purposes. Likewise, the area under a furred ceiling with a vertical height of less than 7 feet (2134 mm) from the finished floor is not part of the habitable area. An example of the first case would be an A-frame structure, which consists of a sloping roof and no or minimal exterior walls. This condition could also exist in any room that has a sloping ceiling. The low height makes those portions of the room generally unusable for adults. See Commentary Figure R304.4.

SECTION R305 CEILING HEIGHT

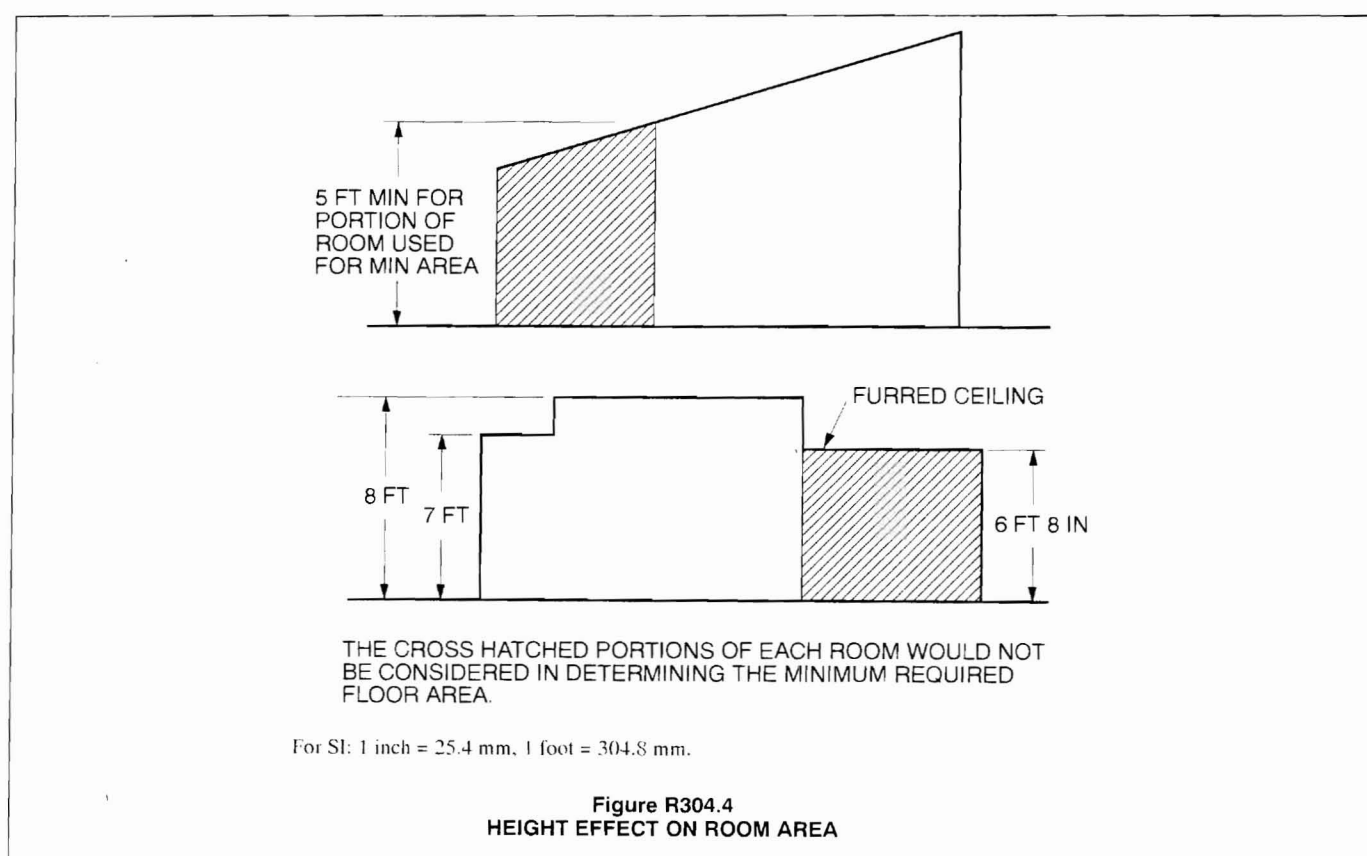
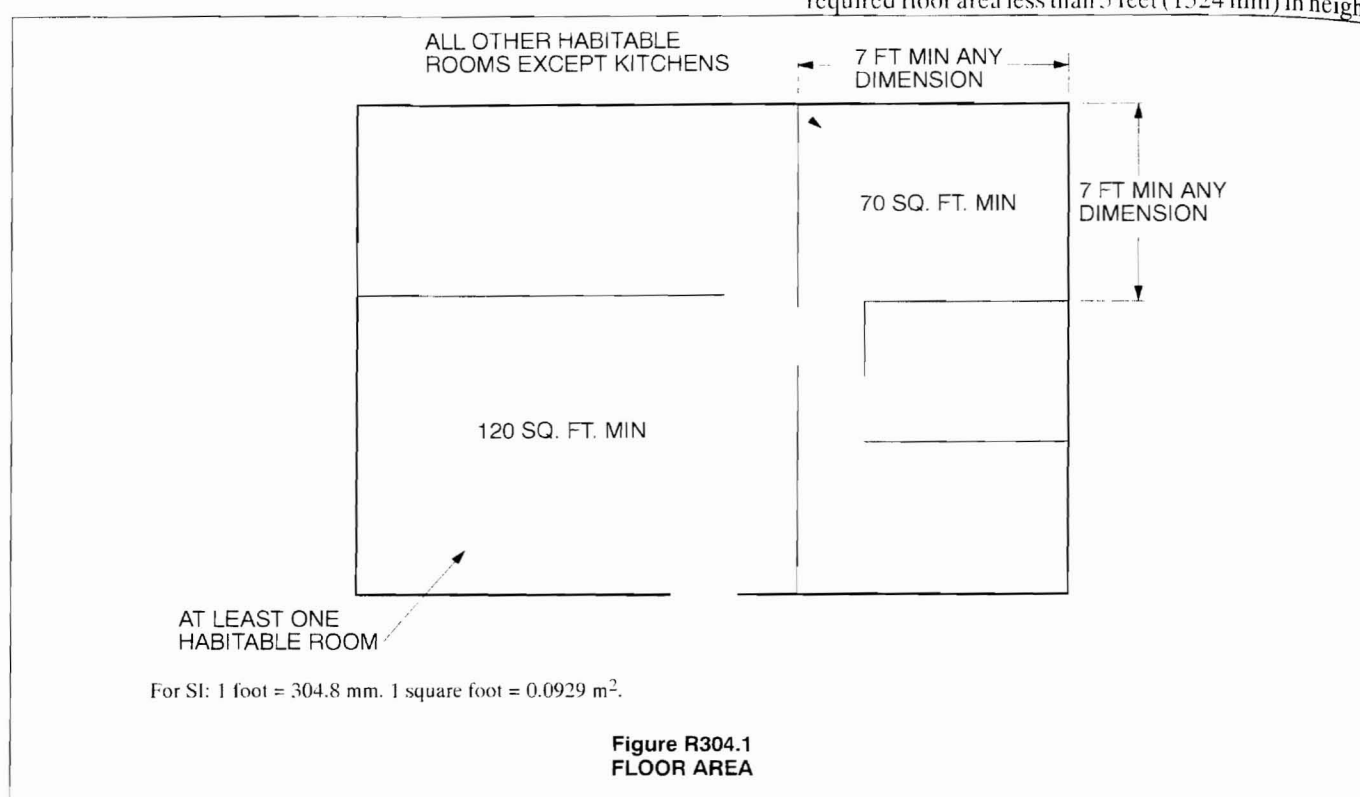
R305.1 Minimum height. Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements shall have a ceiling height of not less than 7 feet (2134 mm). The required height shall be measured from the finish floor to the lowest projection from the ceiling.

Exceptions:

1. Beams and girders spaced not less than 4 feet (1219 mm) on center may project not more than 6 inches (152 mm) below the required ceiling height.
2. Ceilings in basements without habitable spaces may project to within 6 feet, 8 inches (2032 mm) of the fin-

ished floor; and beams, girders, ducts or other obstructions may project to within 6 feet, 4 inches (1931 mm) of the finished floor.

3. Not more than 50 percent of the required floor area of a room or space is permitted to have a sloped ceiling less than 7 feet (2134 mm) in height with no portion of the required floor area less than 5 feet (1524 mm) in height.



4. Bathrooms shall have a minimum ceiling height of 6 feet 8 inches (2036 mm) over the fixture and at the front clearance area for fixtures as shown in Figure R307.2. A shower or tub equipped with a showerhead shall have a minimum ceiling height of 6 feet 8 inches (2036 mm) above a minimum area 30 inches (762 mm) by 30 inches (762 mm) at the showerhead.

- ❖ Minimum ceiling heights are required for habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements. The minimum required height of 7 feet (2134 mm) helps maintain a healthy interior environment. The dimension must be measured to the lowest projection of the ceiling.

For ceilings having exposed beams that project down from the ceiling surface, the ceiling beam members may project no more than 6 inches (152 mm) below the required ceiling height, provided the beams or girders are opened at no less than 4 feet (1219 mm) on center. Basements need have a ceiling height of only 6 feet, 8 inches (2033 mm) or more, with at least 6 feet, 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

For rooms with sloped ceilings, the code requires only that the prescribed ceiling height be maintained in one-half the area of the room. However, no portion of the room that has a ceiling height of less than 5 feet (1524 mm) must be used in the computations for minimum floor area.

Exception 4 defines the required minimum ceiling height over toilet, bath and shower fixtures. This exception allows a sloping ceiling over toilet, bath or shower fixtures provided the minimum ceiling height of 6 feet, 8 inches (2036 mm) is maintained over the fixture and at the front clearance area.

SECTION R306 SANITATION

R306.1 Toilet facilities. Every dwelling unit shall be provided with a water closet, lavatory, and a bathtub or shower.

- ❖ Dwelling units must be provided with at least one each of the fixtures indicated in the code, and the fixtures must be connected to an approved sanitary sewer or private sewage disposal system. A water closet, lavatory and bathtub or shower are the minimum fixtures needed to maintain the occupant's health and cleanliness.

R306.2 Kitchen. Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink.

- ❖ Dwelling units must have a kitchen area with a sink. This area is for the basic preparation of food.

R306.3 Sewage disposal. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.

- ❖ In order to maintain sanitary conditions in the dwelling, all plumbing fixtures must be attached to either a sanitary sewer or approved private sewage disposal system.

R306.4 Water supply to fixtures. All plumbing fixtures shall be connected to an approved water supply. Kitchen sinks, lavatories, bathtubs, showers, bidets, laundry tubs and washing machine outlets shall be provided with hot and cold water.

- ❖ In order to provide proper sanitation for occupants of dwelling units, each plumbing fixture must be connected to an approved water supply. Additionally, specific fixtures must be provided with both a hot and cold water supply.

SECTION R307 TOILET, BATH AND SHOWER SPACES

R307.1 Space required. Fixtures shall be spaced as per Figure R307.2.

- ❖ Fixtures require certain clearances to be accessible and usable. Figure R307.2 depicts the minimum fixture clearances.

R307.2 Bathtub and shower spaces. Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a nonabsorbent surface. Such wall surfaces shall extend to a height of not less than 6 feet (1829 mm) above the floor.

- ❖ Wall surfaces subject to water spray by showerheads must be protected with a nonabsorbent surface to a height of at least 6 feet (1829 mm) above the floor of a bathtub or shower.

SECTION R308 GLAZING

[B] R308.1 Identification. Except as indicated in Section R308.1.1, each pane of glazing installed in hazardous locations as defined in Section R308.4 shall be provided with a manufacturer's or installer's label, designating the type and thickness of glass and the safety glazing standard with which it complies, which is visible in the final installation. The label shall be acid etched, sandblasted, ceramic-fired, embossed mark, or shall be of a type which once applied cannot be removed without being destroyed.

Exceptions:

1. For other than tempered glass, labels may be omitted provided the building official approves the use of a certificate, affidavit or other evidence confirming compliance with this code.
2. Tempered spandrel glass may be identified by the manufacturer with a removable paper label.

HORIZON BUILDERS, INC.

PO Box 802 Portland, Maine 04104
Phone: (207) 856-5060 Fax: (207) 854-3732
www.HorizonBuildersInc.com

William Christian Childs
President

July 16, 2009

Zoning board of Appeals, Rm. 315
City of Portland
389 Congress St
Portland, ME 04101

Re: Appeal of Decision to issue Building Permit # 081166

Dear Members of the Zoning Board of Appeals,

On behalf of the owners of 38 Torrington Ave, Peaks Island ME we respectfully request that you consider the following data and facts before deciding on the Zoning Administrators review of the application of § 14-436 (a) of Portland's Land Use Ordinance to this permit.

The Zoning Administrator provides "four basic tasks" to be met:

1. The expansion limit of no more than fifty (50%) percent of the first floor foot print.

Attachments A, B & C provide the square foot calculations for the existing Basement, First Floor & Second floor respectively. Attachment D shows the Second Floor Plan and the math the Zoning Administrator has used to meet this task.

Attachment D also shows that even if the Basement were considered the first floor that the expansion only exceeds the 50% limit by the de minimus amount of 1.52ft².

We agree with the Zoning Administrators calculations and interpretations wholeheartedly.

Furthermore we suggest that the argument of which floor is the First Floor is frivolous and a waste of time considering the miniscule amount of square footage in question.

2. Method of construction:

Hansons.com defines dormer as "a space which protrudes from the roof of a house, usually including one or more windows."

While the appellants would have you believe that it is imperative to have a "sloped roof", they have merely found a definition to fit their argument. Granted it is most common, because sloped roofs are more common than flat. Dormers are not, however, necessarily defined by the slope of their roof.



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Furthermore a dormer can, and often does run the entire length of a house. In this instance trim details provide the projections to create original roof lines. We again wholeheartedly agree with the Zoning Administrators interpretations to this end

3. Ceiling height:

Attachment E shows a cross section of both pre and post construction. Amongst the dimensions shown is the pre and post construction ceiling heights (6'-5" and 7'-8" respectively). The original floor to ceiling height, even at its tallest, did not meet minimum requirements. Furthermore, while it was contemplated to use parts of the existing structure, the framing and connection were not useable under current standards and could not meet minimum insulation values.

Please note the existing first floor ceiling height (9'-4") and note that it was not matched in the new second floor.

We disagree with the appellants argument that §14-436 (a) is necessarily more restrictive, it is different.

We wonder why the appellants are trying to scrutinize the height of the structure under this section of ordinance at all. City of Portland Land Use Ordinance §14-145.11 (f) (attachment F) SPECICALLY addresses "Maximum structure height" for principal structures in the IR-2 zone. This limit of 35 feet has not been met by either the total height (footing to ridge) or the height used by Zoning to ensure compliance (average grade to average roof height).

We believe that the appellants are trying to force the Zoning Administrator to use the wrong section of the Ordinance to "protect their views", and wholeheartedly agree with the Zoning Administrator that the ordinance (and therefore IRC 2003) calls for at least meeting the minimum but does not confine it to that limit.

4. Roof configuration:

We agree with the Zoning Administrator to a point, but fail to follow the logic of the final step. "Configuration" is key, and has many definitions

- a. An arrangement of parts or elements
- b. Shape
- c. Any spatial attributes
- d. In mathematics, especially geometry, a configuration is an arrangement of points in a specific way.
- e. A configuration consists of a finite set of points and a finite set of lines, such that each point is incident to the same number of lines and each line is incident to the same number of points.

The Zoning Administrators sketch (Attachment G) shows the "depth" comparison of her interpretation and she states in her review that the trusses "have a taller depth" than the original roof structure.

Attachment E clearly shows the triangle in blue which made up the "configuration" of the original roof. It also shows the "configuration" of the truss system (orange) and the dimensions for both old and new. The trusses have a height of 6'-10 13/16" and the old roof was 7'-9".

To give a consistent interpretation to "configuration" one must draw measurements from the same points; As the Zoning Administrator mentioned in her review of §14-436 (a) "top of ridge to bottom of cord". As you can clearly see the new system was actually reduced slightly in an effort to lower overall height.

Based on the foregoing we respectfully request that you consider these facts and find that the structure "as built" meets the criteria set out by the Zoning Administrator for §14-436 (a).

Respectfully,

William C. Childs

William C. Childs
President



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ATTORNEYS AT LAW
P.O. BOX 427
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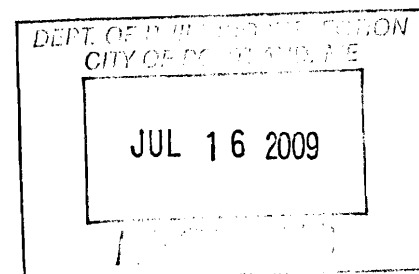
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FAX 207 871-0683

jgoldberg@mittelasen.com

July 16, 2009

VIA HAND DELIVERY

Zoning Board of Appeals, Rm. 315
City of Portland
389 Congress Street
Portland, ME 04101



Re: ***Appeal of Decision of the Zoning Administrator
to Issue Building Permit Number 081166
to Richard and Patricia Ashton
for Property at 38 Torrington Avenue, Peaks Island***

Dear Members of the Zoning Board of Appeals:

My clients, Alfred Aydelott, Adrienne Giske, Donna Marston, Claire Filleittaz, and Monique Levesque would like the Zoning Board of Appeals (“ZBA”), in reviewing the above-referenced appeal under the provisions of Section 14-436(a) as directed by the Superior Court, to know that they agree with the Zoning Administrator’s determination that “this project does not comply with the ordinance,” but disagree with the analysis and the conclusions that led her to that determination.

1. “The additional floor area shall be created in the uppermost floor by the use of dormers, turrets, or similar structures.” Section 14-436(a).

The Merriam-Webster Online Dictionary defines dormer as “a window set vertically in a structure projecting through a sloping roof.” Dictionary.com says about the noun form of the word, “1. Also called dormer window. A vertical window in a projection built out from a sloping roof. 2. the entire projecting structure.” If it weren’t already obvious, these definitions would erase any doubt that a dormer must project from a sloping roof. The attached drawing labelled “Zoning Dept. Interpretation” depicts the transformation from the original Ashton cottage—replete with dormers—to the as-built expanded cottage totally devoid of dormers.

cated in the immediate vicinity of the bottom landing of the stairway.

Exception: An artificial light source is not required at the top and bottom landing, provided an artificial light source is located directly over each stairway section.

R303.6.1 Light activation. The control for activation of the required interior stairway lighting shall be accessible at the top and bottom of each stairway without traversing any steps. The illumination of exterior stairways shall be controlled from inside the dwelling unit.

Exception: Lights that are continuously illuminated or automatically controlled.

R303.7 Required glazed openings. Required glazed openings shall open directly onto a street or public alley, or a yard or court located on the same lot as the building.

R303.7.1 Roofed porches. Required glazed openings may face into a roofed porch where the porch abuts a street, yard or court and the longer side of the porch is at least 65 percent open and unobstructed and the ceiling height is not less than 7 feet (2134 mm).

R303.8 Required heating. When the winter design temperature in Table R301.2(1) is below 60°F (16°C), every dwelling unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68°F (20°C) at a point 3 feet (914 mm) above the floor and 2 feet (610 mm) from exterior walls in all habitable rooms at the design temperature. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.

SECTION R304 MINIMUM ROOM AREAS

R304.1 Minimum area. Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet (11.2 m²) of gross floor area.

R304.2 Other rooms. Other habitable rooms shall have a floor area of not less than 70 square feet (6.5 m²).

Exception: Kitchens.

R304.3 Minimum dimensions. Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

Exception: Kitchens.

R304.4 Height effect on room area. Portions of a room with a sloping ceiling measuring less than 5 feet (1524 mm) or a furred ceiling measuring less than 7 feet (2134 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room.

SECTION R305 CEILING HEIGHT

R305.1 Minimum height. Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements

shall have a ceiling height of not less than 7 feet (2134 mm). The required height shall be measured from the finish floor to the lowest projection from the ceiling.

Exceptions:

1. Beams and girders spaced not less than 4 feet (1219 mm) on center may project not more than 6 inches (152 mm) below the required ceiling height.
2. Ceilings in basements without habitable spaces may project to within 6 feet, 8 inches (2032 mm) of the finished floor; and beams, girders, ducts or other obstructions may project to within 6 feet, 4 inches (1931 mm) of the finished floor.
3. Not more than 50 percent of the required floor area of a room or space is permitted to have a sloped ceiling less than 7 feet (2134 mm) in height with no portion of the required floor area less than 5 feet (1524 mm) in height.
4. Bathrooms shall have a minimum ceiling height of 6 feet 8 inches (2036 mm) over the fixture and at the front clearance area for fixtures as shown in Figure R307.2. A shower or tub equipped with a showerhead shall have a minimum ceiling height of 6 feet 8 inches (2036 mm) above a minimum area 30 inches (762 mm) by 30 inches (762 mm) at the showerhead.

SECTION R306 SANITATION

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R306.2 Kitchen. Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink.

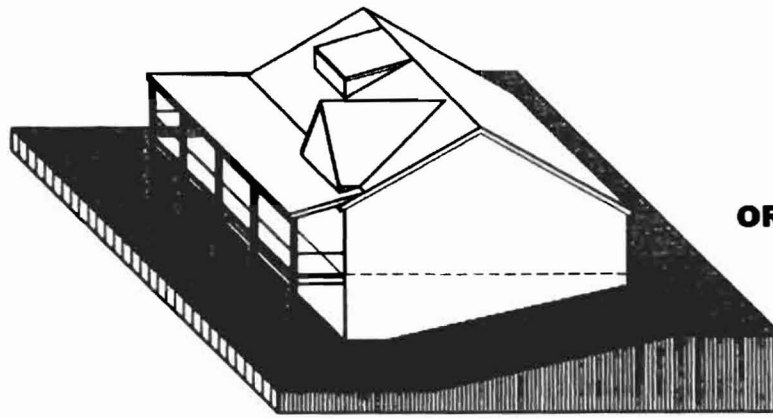
R306.3 Sewage disposal. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.

R306.4 Water supply to fixtures. All plumbing fixtures shall be connected to an approved water supply. Kitchen sinks, lavatories, bathtubs, showers, bidets, laundry tubs and washing machine outlets shall be provided with hot and cold water.

SECTION R307 TOILET, BATH AND SHOWER SPACES

R307.1 Space required. Fixtures shall be spaced as per Figure R307.2.

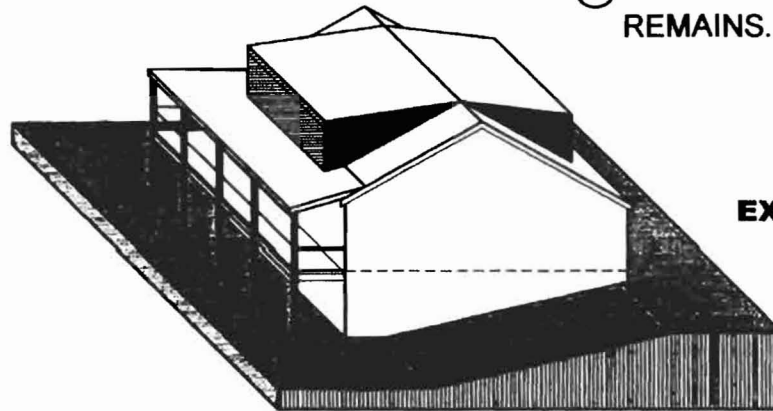
R307.2 Bathtub and shower spaces. Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a nonabsorbent surface. Such wall surfaces shall extend to a height of not less than 6 feet (1829 mm) above the floor.



ORIGINAL COTTAGE



- ① EXPAND AREA WITH DORMERS WHILE PRESERVING ROOF.
- ② DORMERS ARE SUBSIDIARY STRUCTURES IN ROOF.
- ③ ORIGINAL RIDGE HEIGHT REMAINS.

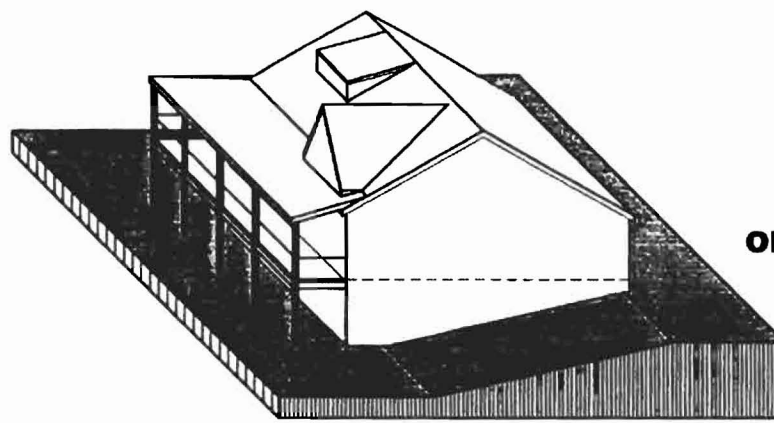


EXPANDED COTTAGE

Appellant Interpretation

Paragraph 14-436(a) Evaluation

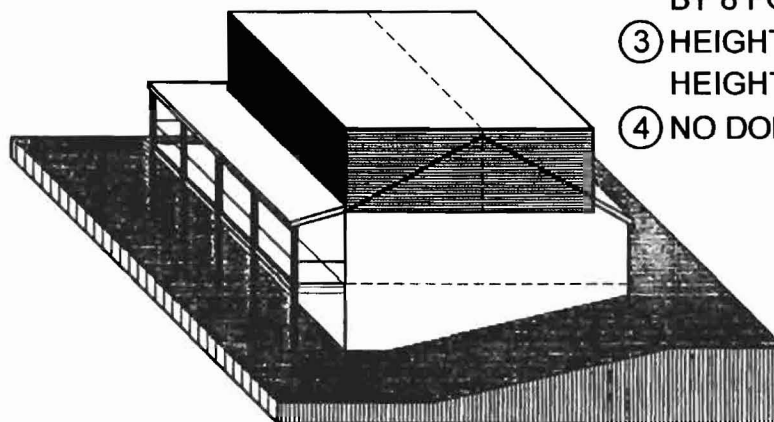
38 Torrington Avenue, Peaks Island **SK1**



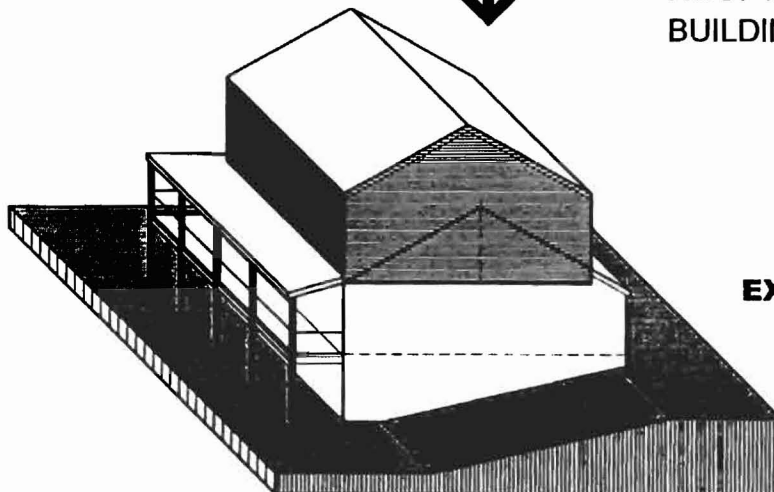
ORIGINAL COTTAGE



- ① ORIGINAL ROOF IS TOTALLY DEMOLISHED AND REMOVED.
- ② ORIGINAL ROOF IS COMPLETELY REPLACED BY 8 FOOT WALLS.
- ③ HEIGHT OF WALLS EXCEEDS HEIGHT OF ORIGINAL ROOF.
- ④ NO DORMERS EXIST.



- ① NEW ROOF IS CONSTRUCTED ABOVE NEW WALLS, RAISING ROOF AND INCREASING BUILDING HEIGHT 8 - 9 FEET.



EXPANDED COTTAGE

Zoning Dept. Interpretation

Paragraph 14-436(a) Evaluation
38 Torrington Avenue, Peaks Island **SK2**



Southeast Elevation

