

CITY OF SOUTH PORTLAND

Name of Body:	Planning Board
Agenda for Workshop of:	July 11, 2017
Workshop Begins:	Immediately following the Planning Board Meeting
Workshop Ends:	One -hour in length
Workshop Location:	Council Chambers, City Hall

WORKSHOP AGENDA

1. Nonconforming lot of record – Carl and Emily Eppich - 291 Pine St.

The purpose of the workshop is to allow the applicant to discuss the eligibility of their nonconforming lot of record, concerns from the architectural peer review consultant, and proposed foundation drain and stormwater management system located at 291 Pine Street. The applicants are proposing to develop a single-family home on a lot size of 5,120 SF.

WORKSHOPS ARE NOT TELEVISED.

T. Haeuser explained that there is an application for a nonconforming lot of record (NCLR) in Meetinghouse Hill and the review is proceeding appropriately. There have been questions about the design and stormwater but the applicant has done a good job of addressing them, such as obtaining an easement for stormwater runoff on the neighbor’s property. There is currently an issue and a question about whether or not they have a NCLR that meets the requirements and characteristics from the ordinance.

He showed the Section 27-304 and read the first sentence. Normally, they have a developed lot next to the undeveloped NCLR and the deed for the developed lot encompasses both and describes the lot on which the house is and describes the unimproved lot separately. It will also mention the old subdivision plan it came from. In this case, that does not exist anymore. The description for the property is for the entire lot and the NCLR is merged with the improved part.

Sally Daggett raised a question/objection that he read aloud. As of 2007, the lot of record was the property described in the 2004 deed. This information was passed to the applicant and they provided a chain of deeds. He could find a description of the lot they want to build on in a deed that carried forward to subsequent owners, ultimately to be merged into the current description. While that’s not one of the original subdivision lots, it is a lot that existed prior to 2007 in a deed.

He indicated in his email to staff that it seems that the purpose of the nonconformance ordinance is to allow the de-merging of previously merged lots. He doesn’t think the original NCLR disappeared just because the current deed doesn’t have the two lots described separately. Sally Daggett’s feeling is that because Section 27-304 is in the Board’s purview, she felt there is a policy question and it is appropriate for the Board to have a say in whether they feel this is a legitimate NCLR under the requirements of Section 27-304 to proceed or not. He thinks it’s acceptable, but it’s something they wanted to bring to the Board. If it’s the Boards feeling that Section 27-304 should be interpreted more narrowly, this application cannot go forward.

L. Boudreau said she read through everything and found reference to the two lots. It states they split one lot in half and combined it. Her question is if half a lot is a lot, and she thinks it is. They referenced the lot specifically in how it was divided. It states the conveyance of Lots 3 and 4 and that identifies two lots to her. It's not as clear as one would hope. When they talked about this for years it was about unmerging lots and making extra parcels available under guidance from their ordinances for development. She thinks it's a buildable lot. If you look at the rest of the street, you see similar narrow lots.

K. Carr asked if the portion of Lot 4 demerged otherwise meets the requirements to be developed. Do the demerged components stand by themselves and will whoever ends up purchasing the demerged lot be able to get clear deed & title?

Carl Eppich, 295 and 291 Pine St., said the lot is already demerged—they have two tax bills. They began this three years ago before you needed to determine if you have 5000 SF or less.

T. Haeuser asked if that was accomplished with what they did in 2016. **C. Eppich** said the process took that long. **T. Haeuser** said the problem is that it doesn't count relative to 2007. **C. Eppich** clarified—he is saying it is a separate lot whether or not they can do anything with it.

S. Puleo said the question that staff is looking to get guidance on is the policy—are they able to track it back to a particular deed that describes this portion of Lot 4 prior to 2007? Is that the case here—did the applicant provide enough evidence to show this is a lot of record described prior to 2007 in the deed and recorded in the Cumberland County Registry of Deeds?

K. Carr asked what's strange about this case. **T. Haeuser** said when you look at the deed, it doesn't say "consisting of this half" and "this half." That would be simple and straightforward. There is a description that is for the two lots together and it's not a description of overlays that include part of an old lot. The only thing is that at one point, through a succession of owners where the deeds used to describe the nonconforming lot separately, in more recent years that separate description disappeared. A) It's merged and B) It doesn't conform to one of the original subdivision lots. His reading is that it doesn't need to—it has to be a legal deed as of a date before 2007. If you go from the chain, it shows one—it carried forward and got merged.

K. Carr asked if this is as simple as in that chain of deeds, the description of the property was altered. **T. Haeuser** said yes, instead of two it is now one.

C. Eppich said it was two until 1957 and someone sold it and it was a simplified description. It describes the same land but the differentiation vaporized. It carries through the 2004 deed.

T. Haeuser said Sally Daggett wanted them to have a chance to talk about it as NCLRs are controversial.

L. Boudreau thinks she's found descriptions of two lots. Other members of the Board agreed and **K. Gatti** doesn't have a clear opinion yet.

T. Haeuser said they have other hurdles, and they are prepared for a presentation but it's probably better to leave that for a Public Hearing. **K. Carr** prefers it to be in a Public Hearing.

S. Puleo said they are prepared to bring this application forward on July 25th for a Public Hearing with the understanding that the Board understands the eligibility component. If this is positive guidance, they will process for a hearing on the 25th and the rest of the application will be discussed at that point.

Emily Wright, 295 and 291 Pine St., said this has been an extremely long process. They have four people living in a two bedroom house and have been waiting for this process to happen. She asked if there anything that raises red flags.

K. Carr said staff can talk about that but it sounds like this would come to the Board on the 25th. It is not appropriate for the Board to hear that at this point.

S. Puleo said it seems like mostly everything has been addressed. They will work out details closer to the hearing time. The red flag was this issue.