

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Joseph Zamboni, Chair
Jared Falcon, Secretary
Kent Avery
Dan Black
Donna Katsiaficas
Benjamin McCall
William Sedlack

ZONING BOARD OF APPEALS DECISION FROM July 21, 2022

To: City Clerk
From: Ann Machado, Zoning Administrator
Date: July 22, 2022
RE: Actions taken by the Zoning Board of Appeals on July 21, 2022 at a remote Zoom Webinar meeting

Attendance: Joseph Zamboni (Chair), Jared Falcon (Secretary), Donna Katsiaficas, Ben McCall, and Kent Avery, present. William Sedlack, and Dan Black, absent.

1. New Business

- A. **Miscellaneous Appeal ([ZBA-002104-2022](#)):**
52 Fessenden Street, Patrick Roche, owner, Tax Map 116, Block D, Lot 018, R-5 Residential Zone: The applicant is requesting that the recorded Low Rental Income Housing Agreement and Declaration of Covenants, Conditions and Restrictions (Book 35491, Page 76) be rescinded because it is no longer required for an Accessory Dwelling Unit under section 6.6.2.A, Chapter 14 of the City of Portland Code of Ordinances. Representing the appeal is the owner. **The Board voted 5-0 to grant the appeal.**

2. Old Business

- A. **Interpretation Appeal: ([ZBA-002053-2022](#))**
110 Thames Street, owner PF One DevCo LLC, Tax Map 018, Block A, Lot 004, B-6 Mixed Use Zone: The owner is challenging the Permitting and Inspections Department's denial of building permit BLDC2022-02496 based on the fact that the applicant's computation of the occupant load does not meet the requirements of the IBC code. The owner is requesting that the Board approve the occupant load calculations of their Registered Design Professional and overturn the denial of the building permit. Representing the appeal are the owner's attorneys, Kurt Olafsen and Meredith Eilers. The Board heard the appeal at the July 7, 2022 meeting and will take a final vote on the Findings of Fact. **The Board voted 5-0 to grant the Interpretation Appeal ruling that the City erred in their decision to deny the Building Permit because their determination of the occupant load did not align with the testimony about the intended uses of the space. As part of the ruling, the**

Board also ruled that the Building permit *be issued forthwith, subject to the completion of IBC and NFPA code reviews.*

B. Interpretation Appeal: ([ZBA-002056-2022](#))

110 Thames Street, lessee Sun Life Financial (US) Services Company, Tax Map 018, Block A, Lot 004, B-6 Mixed Use Zone: The lessee is challenging the Permitting and Inspections Department's denial of building permit BLDC2021-02424 based on the fact that the applicant's computation of the occupant load does not meet the requirements of the IBC code. The lessee is requesting that the Board find the City's interpretation of the relevant building code sections regarding occupancy load for modern office buildings incorrect and overturn the denial of the building permit. Representing the appeal is the lessee's attorney Mary Costigan, and Donna Buck, architect at GastingerWalker. The Board heard the appeal at the July 7, 2022 meeting and will take a final vote on the Findings of Fact. **The Board voted 5-0 to grant the Interpretation Appeal ruling that the City erred in their decision to deny the Building Permit because their determination of the occupant load did not align with the testimony about the intended uses of the space. As part of the ruling, the Board also ruled that the Building permit *be issued forthwith, subject to the completion of IBC and NFPA code reviews.***

3. Adjournment (meeting started at 6:00 pm) and adjourned at 8:06 pm

cc: Danielle West, Acting City Manager
Christine Grimando, Director Planning & Urban Development
City Councilors
Planning Board Members