

COMPLIANCE
REVIEW LETTER

February 17, 2023

York Planning Board
DeCarlo Brown, Land Use Planner
Town of York
186 York Street
York, Maine 03909

Application: 192 York Street – 192 York Street LLC
Tax Map 50 Lot 43

Site Plan Review – New Multi-family dwelling unit.

Review Status: New application.

Board members and Mr. Brown,

The following application information has been provided for review:

1. Application form dated 10/7/2022.
2. Cover Letter: *Project Description and Waiver Request – 192 York Street* Prepared by Drew Fitch, Atlantic Development, LLC. (includes correspondence to and from sewer and water districts, fire and police departments, reduced copy of survey, deed, other exhibits, etc..)
3. Existing Survey entitled: *Plan of Land prepared for Estate of Ann M. Hodgkin, off York Street, York, Maine*. Prepared by Anderson Livingston Engineers, Inc, Revision Date 2/2/2017. (Reduced copy)
4. Draft Findings of Fact.

With review of the above information and the Town’s Zoning ordinance and the Site Plan and Subdivision regulations, I offer the following comments on compliance with the Town’s ordinances.

PROJECT DESCRIPTION

The application is seeking approval for the conversion of an existing non-residential office space to a residential dwelling within an existing mixed-use building. Located in a nonconforming building within the YVC-1 zoning district.

REVIEW SUMMARY/HIGHLIGHTS

The application is before the Planning Board as required by the Zoning Ordinance, Sec. 18.15.B.1.B.2 for review of an additional residential unit in multi-family housing. This results in Site Plan Review. The following is a summary of the review comments:

1. The applicant is requesting a number of waivers related to submittal items required for the Site Plan and Subdivision regulations.
2. This application is located within the York Village Center -1 zoning district that requires, per Sec. 5.2.2, properties served by public water and sewer to have 5,000 SF for minimum land area (lot area). The property conforms to this with 30,000 SF of gross lot area.
3. Article 4, Permitted Uses in YVC-1 and YVC-2, permits multi-family uses only as part of a mixed-use building. The use currently conforms to this requirement, however, with the non-residential space proposed to be converted to residential, it will no longer conform to this requirement, since the remaining space is all existing residential.

COMPLETENESS REVIEW

Since the application has no proposed site work, the applicant has requested a number of waivers from the Site Plan and Subdivision Regulations. The applicant has provided a checklist in the submittal and has enumerated all the requested waivers in the draft Findings of Fact. The Board should review these two sections for more details. The following is a list of those waiver requests that Staff is not in support of:

1. Sec. 6.4.7 A plan showing the location and dimensions of all proposed development improvements and alterations. Though there are no actual site related development proposed, there is an existing development that is being modified and requires the Board's approval. A Site Plan, as anticipated Article 5, is the instrument that the Board uses to issue and document its approval. The survey plan submitted, can be used, with permission from the engineering firm that owns rights to the plan, is more than adequate to be the basis for such an instrument.

COMPLIANCE WITH THE TOWN'S ORDINANCES

ARTICLE 4 USE REGULATIONS

1. Multi-family residential units are permitted in the YVC-1 zoning district, however, only as part of a mixed-use building. The use currently conforms to this requirement, with the office space. This non-residential space, however, is proposed to be converted to residential, resulting in a nonconforming condition, since the remaining space is all existing residential. The applicant needs to address this.

ARTICLE 5 DIMENSIONAL REGULATIONS

2. Section 5.4.9 states that the *conversion of a property or building from a non-residential use to a residential use with more than one residential unit shall be permitted only when the proposed residential use is permitted and is in full conformance with all applicable density standards of the base and relevant overlay zoning districts.* It appears from review of Sec.

5.2.2 and past development reviews in the *Village Center* districts, there are no density standards that apply for this zone. The dimensional standards under Sec. 5.2.2 do not include density and Sec. 5.4 *Density* does not include Village Center districts.

ARTICLE 15 PARKING

3. The applicant states that there is sufficient parking required for the additional dwelling unit, however, without a scaled plan that identifies the total number of parking spaces on the lot, it is difficult to demonstrate compliance.

ARTICLE 17 NONCONFORMING SITUATIONS

4. The applicant states the existing building is nonconforming. It appears the existing building is a nonconforming structure in that it does not meet dimensional setbacks. There does not appear to be, however, a nonconforming use, at least one that would allow for expansion of such a use. Though the eleven dwelling units were established before the requirements of the Village Center districts, whereby requiring the dwellings only in a mixed-use building, the applicable use category is a *multi-family dwelling*. Singular not plural. So it is difficult to see how the existing eleven nonconforming multi-family dwellings can be thought of as a nonconforming use that is allowed to expand as would a single entity, such as a restaurant or a manufacturing plant, that Sec. 17.1.6 accommodates. The applicant and the Planning Board may want to obtain an opinion from the Code Enforcement Office and/or the Town Attorney.

WAIVER REQUESTS

The applicant has enumerated the list of waiver requests in the submitted draft Findings of Fact.

CONCLUSION

The submitted application for a multi-family dwelling is limited in scope with no site work proposed, however, based on the comments above it is not clear how the new dwelling can conform to the ordinance with the removal of the only non-residential use in what currently is a mixed-use building, which is required in the Village Center districts.

Feel free to contact me with questions.

Best regards,



Christopher Di Matteo