

Eric Larsson
Kent Avery
William Oet 2
Donna Kertsiascas

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

R-6 Residential Zone, Off-Street parking

Conditional Use Appeal

DECISION

Date of public hearing: June 18, 2015,

Name and address of applicant: Congress 127 Apartments, LLC
c/o Murray, Plumb & Murray
Portland, ME 04101

Location of property under appeal: 147 Congress St.
Portland, ME 04101

For the Record:

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

Proponents: John Shumadine, Esq. Tom Tate Principal of Congress 127
75 Pearl St. Apartments, LLC
Portland 04101
for applicant

Opponents: Karen Rasmussen
147 Congress St.
Portland

Tess Armstrong opponent
151 Congress St
Portland

Tom Armstrong
151 Congress
Unit 6
Portland

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

Applications & attachments

Photographs of garden area previously at
147 Congress St, submitted by Karen
Rasmussen and Tess Armstrong

Tess Armstrong

concerned - accountability

snow removal

removal of garden area

lighting → turn around

property value

Tom Armstrong: Concern for people pulling out of
parking area, snow removal, maintenance
issues

Karen Rasmussen: Encourages retaining garden
character

discourages providing paved
parking for off ~~street~~ property
housing

KA

Findings of Fact and Conclusions of Law:

The applicant, Congress 127 Apartments, LLC, is proposing changes to its property at 147 Congress Street, amongst those changes is creation of three parking spaces in the rear of the Property for use of a condominium located at 137 Congress Street, approximately 115 feet away, which requires conditional use approval.

The property is located in both the R-6 Residential Zone and the B-1 Neighborhood Business Zone, however the proposed conditional use, the parking lot as depicted in the plan, would be located entirely within the R-6 Residential Zone. Accordingly, the Conditional Use sought is pursuant to § 14-137(c)(5).

A. Conditional Use Standards pursuant to Portland City Code §14-137(c)(5):

Off Street Parking is permitted upon the issuance of a conditional use permit in the R-6 Residential Zone, provided that:

1. The parking is for passenger cars only;

Satisfied Not Satisfied

Reason and supporting facts:

Application is for 5 residential off street parking - 2 units for private home, 3 for condos at 137 Congress St.

2. The parking is for uses permitted in the R-6 Zone (e.g. Condominiums);

Satisfied Not Satisfied

Reason and supporting facts:

Parking for residential use that is permitted + accessory residential uses

B. Conditional Use Standards pursuant to Portland City Code §14-474(c)(2):

The Board shall not authorize issuance of a conditional use permit unless there has been a showing that the proposed use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district. Accordingly, the Board shall only grant approval if each of the following is satisfied:

1. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone.

Satisfied Not Satisfied

Reason and supporting facts:

6 unit condominium next door, commercially rentable parking spaces on block, fire station, reservoir & Superette in area; what is proposed is less than in neighborhood. Vehicles will be off street (3 more)

2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter.

Satisfied Not Satisfied

Reason and supporting facts:

permitted use not in excess of what is already allowed on site. Pavement will reduce dust. Parking is a permitted use. Concerns raised by public are aesthetic & don't go to standard.

3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

Satisfied Not Satisfied

Reason and supporting facts:
No materials being stored or generated (except snow)

Conclusion: (check one)

Option 1: The Board finds that all of the standards (1 and 2) described in section A above have been satisfied and that all of the standards (1 through 3) described in section B above have been satisfied, and therefore GRANTS the application.

Option 2: The Board finds that while all of the standards (1 and 2) described in section A above have been satisfied, and that while all standards (1 through 3) described in section B above are satisfied, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

Option 3: The Board finds that not all of the standards (1 through 4) described in section A above have been satisfied and/or that not all of the standards (1 through 3) described in section B have been satisfied, and therefore DENIES the application.

Dated: *June 18, 2015*

[Handwritten Signature]

Board Chair

**KENT AVERY,
ACTING
CHAIR**