

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Philip Saucier
Sara Moppin-secretary
Gordon Smith-chair
Mark Bower
William Getz
Elyse Segovias

August 7, 2012

David Levi
19 Ellsworth Street
Portland, ME 04102

RE: 181 Congress Street
CBL: 013 M026
ZONE: B-1

Dear Mr. Levi,

At the August 2, 2012 meeting, the Zoning Board of Appeals voted 4-0 to grant the Miscellaneous Appeal to allow two of the required off-street parking spaces to be leased off premises with the condition that the owner of the two parking spaces must submit a letter of permission to lease before the building permit is issued. The Board also voted 4-0 to grant the Conditional Use Appeal to establish a restaurant. This approval is valid for two years from the date of the appeal. I am enclosing copies of the Board's decisions.

You will also find an invoice for \$310.59 for the fees that are still owed on the appeals for the cost of the legal ad, the cost of the noticing and the processing fee. Please submit your payment on receipt of the invoice.

Now that the Miscellaneous and Conditional Use Appeals have been approved, you need to submit a change of use application/building permit to change the use of the property to a restaurant. This permit should include any interior work that is necessary to fit the space up as a restaurant. I have enclosed an application. The building permit must be issued and construction begun within two years of the date of the hearing, August 2, 2012, referenced under section 14-474(f), or the Zoning Board approval will expire.

Appeals from decisions of the Board may be filed in Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

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

Yours truly,



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: August 6, 2012
RE: Action taken by the Zoning Board of Appeals on August 2, 2012.

Members Present: William Getz, Phil Saucier (acting chair), Mark Bower and Sara Moppin (secretary)

Members Absent: Gordon Smith and Elyse Segovias

1. New Business

A. Miscellaneous Appeal:

181-183 Congress Street, David Levi, buyer, Tax Map 013, Block M, Lot 026, B-1 Neighborhood Business Zone: The appellant is seeking a Miscellaneous Appeal under section 14-334 to provide two required off-street parking spaces that are located more than one hundred feet from his restaurant. Representing the appeal is the buyer. **The Zoning Board of Appeals voted 4-0 to grant the appeal allowing the applicant to lease two off street parking spaces off site with the condition that the applicant submit a letter from the owner of the parking spaces before the issuance of the building permit.**

B. Conditional Use Appeal:

181-183 Congress Street, David Levi, buyer, Tax Map 013, Block M, Lot 026, B-1 Neighborhood Business Zone: The appellant is seeking a Conditional Use Appeal under section 14-163(a)(1) to have a restaurant. Representing the appeal is the buyer. **The Zoning Board of Appeals voted 4-0 to grant the appeal to allow the restaurant use. The approval is valid for two years from the date of the appeal.**

Enclosure:

Decisions for Agenda from August 2, 2012
One DVD

CC: Mark Rees, City Manager
Jeff Levine, Planning & Urban Development
Alex Jaegerman, Planning Division
Mary Davis, Housing and Neighborhood Services Division

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

B-1 Neighborhood Business Zone (Restaurant):

Conditional Use Appeal

DECISION

Date of public hearing: August 2, 2012

Name and address of applicant: David Levi
Vinland
19 Ellsworth Street
Portland, ME 04102

Location of property under appeal: 181 Congress Street

For the Record:

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

Elisabeth Trive ~~Trive~~ *Planning to purchase building
behind restaurant*
Peter Blackstone 76 Cumberland

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

Findings of Fact and Conclusions of Law:

The applicant is requesting a conditional use permit for a property located within the B-1 zone, in order to convert it from its present use as a tattoo parlor into a small, fine-dining restaurant. They are proposing 25 seats and 664 sq ft of public floor space. Applicant is proposing to serve dinner five nights per week and brunch on the weekends with the possibility of serving lunch in the future. Restaurant will close at 11:00 p.m. every night. Applicant hopes to serve wine and liquor, though it will represent a small part of their business as they have a very small bar and will not have any bar-only business. There will be no drive through service.

A. Conditional Use Standards pursuant to Portland City Code §14-163(a):

1. The use applied for is a restaurant, i.e., a food service establishment with indoor seating capacity for ten (10) or more patrons.

Satisfied Not Satisfied

Reason and supporting facts:

Will be a ~~fine~~^{casual fine} dining restaurant with approximately 25 seats

2. Maximum total floor area for use of the public shall be one thousand (1,000) square feet.

Satisfied Not Satisfied

Reason and supporting facts:

Total Floor area will be 664 square feet.

3. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

Hours will be 5:30 pm to 10 or 11 pm.

4. Food service and consumption are the primary function of the restaurant.

Satisfied Not Satisfied _____

Reason and supporting facts:

Less ~~than~~ more than 50% of revenue will be from sale of alcoholic beverages. Primary function is food service.

5. There shall be no drive-through service.

Satisfied Not Satisfied _____

Reason and supporting facts:

Per testimony,
There will be ~~no~~ drive-through service.

6. The use will generate no more than 100 peak hour vehicle trips per 2000 sq. ft. of space. (Note: the city traffic engineer shall require a traffic study when it

calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.)

Satisfied Not Satisfied

Reason and supporting facts:

Per testimony and application, restaurant will only have 25 seats and much traffic will be by foot.

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

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

Yes No

Reason and supporting facts:

Small neighborhood restaurants, no impact on parking, neighbors are supportive, no increase in traffic.

2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.

Yes ___

No

Reason and supporting facts:

Neighbors are supportive
of restaurant use and
abutter near parking is
supportive.

3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

Yes

No ___

Reason and supporting facts:

Will compare favorably to
similar restaurants in
neighborhood and no
testimony in opposition to
proposed use.

Conclusion: (check one)

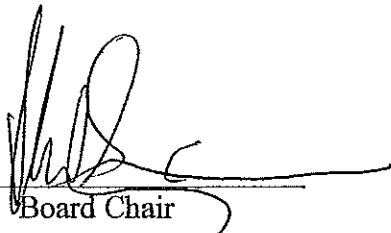
✓
Option 1: The Board finds that all of the standards (1 through 6) described in section A above have been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application. *with the*

Option 2: The Board finds that the all of the standards (1 through 6) described in section A above have been satisfied, and that while not all of the conditions (1 through 3) described in section B above are present, 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:

Following Provision: Approval to be valid for two years.

Option 3: The Board finds that the standards (1 through 6) described in section A above have NOT all been satisfied and/or that all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

Dated: *Aug 2, 2012*


Board Chair

Members Present: Phil Sawyer (Chair) SARA Moppin (Sec) - Mark Baker
William Getz

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Members Absent: Gordon Smith - Elyse Segoria

APPEAL AGENDA

6:35 pm

The Board of Appeals will hold a public hearing on Thursday, August 2, 2012 at 6:30 p.m. on the second floor in Room 209 at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following appeals:

1. New Business

"Vinland"

A. Miscellaneous Appeal:

181-183 Congress Street, David Levi, buyer, Tax Map 013, Block M, Lot 026, B-1
Neighborhood Business Zone: The appellant is seeking a Miscellaneous Appeal under section 14-334 to provide two required off-street parking spaces that are located more than one hundred feet from his restaurant. Representing the appeal is the buyer.

B. Conditional Use Appeal:

181-183 Congress Street, David Levi, buyer, Tax Map 013, Block M, Lot 026, B-1
Neighborhood Business Zone: The appellant is seeking a Conditional Use Appeal under section 14-163(a)(1) to have a restaurant. Representing the appeal is the buyer.

2. Adjournment:

7:05 pm

Granted
4-0
with condition
w/owner of
parking spaces
gives approval
lot
Granted
4-0

Allowed up to 2 years



City of Portland Zoning Board of Appeals

July 25, 2012

David Levi
19 Ellsworth Street
Portland, ME 04102

Dear Mr. Levi,

Your Conditional Use and Miscellaneous Appeals have been scheduled to be heard before the Zoning Board of Appeals on **Thursday, August 2, 2012 at 6:30 p.m.** in room 209, located on the second floor of City Hall.

Please remember to bring copies of your application packets with you to the meeting to answer any questions the Board may have.

I have included an agenda with your appeals highlighted, as well as a handout outlining the meeting process for the Zoning Board of Appeals.

I have also included the bill for the processing fee, legal ad and the notices for the appeals. The check should be written as follows:

MAKE CHECK OUT TO: City of Portland
MAILING ADDRESS: Room 315, Attn: Ann Machado
389 Congress Street
Portland, ME 04101

Please feel free to contact me at 207-874-8709 if you have any questions.

Sincerely,

Ann B. Machado
Zoning Specialist

Cc: File



PORTLAND MAINE

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Receipts Details:

Tender Information: Check , Check Number: 127

Tender Amount: 100.00

Receipt Header:

Cashier Id: amachado

Receipt Date: 7/3/2012

Receipt Number: 45600

Receipt Details:

Referance ID:	1669	Fee Type:	PZ-Z1
Receipt Number:	0	Payment Date:	
Transaction Amount:	100.00	Charge Amount:	100.00
Job ID: Project ID: 2012-537 - 181 Congress St.- Conditional Use			
Additional Comments:			

Thank You for your Payment!

Ann Machado - Re: Legal Ad for Zoning Board of Appeals

From: Joan Jensen <jjensen@pressherald.com>
To: Ann Machado <AMACHADO@portlandmaine.gov>
Date: 7/24/2012 11:55 AM
Subject: Re: Legal Ad for Zoning Board of Appeals
Attachments: Portland 7:27.pdf

Hi Ann,

All set to run your ad on Friday, July 27.
The cost is \$127.84 includes \$2.00 online charge. I included a proof.
Thank you,
Joan

Joan Jensen
Legal Advertising
Portland Press Herald/Maine Sunday Telegram
P.O. Box 1460
Portland, ME 04104
Tel. (207) 791-6157
Fax (207) 791-6910
Email jjensen@pressherald.com

On 7/24/12 9:32 AM, Ann Machado wrote:

Thanks for keeping me honest. Here it is.

Ann

>>> Joan Jensen <jjensen@pressherald.com> 7/24/2012 8:38 AM >>>
Good morning Ann,

I did not receive the attachment.
Thank you,
Joan

Joan Jensen
Legal Advertising
Portland Press Herald/Maine Sunday Telegram
P.O. Box 1460
Portland, ME 04104
Tel. (207) 791-6157
Fax (207) 791-6910
Email jjensen@pressherald.com

On 7/24/12 8:50 AM, Ann Machado wrote: