

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

McCall  
Buxels  
Avery  
Larson  
Hartigan  
Zamboni  
C.R.A./

**B-2b Community Business Zone**  
**Conditional Use Appeal**

**DECISION**

Date of public hearing: March 15, 2018  
Name and address of Appellant: Michael and Kathleen Rokowski  
15 Sandy Toes Ln.  
Windham, Maine 04062  
Location of property under appeal: 12 Alder Street  
CBL 033 J015 001

**For the Record:**

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

Michael Rokowski  
Kathleen Rokowski  
(12 Alder St.) 15 Sandy Toes Lane  
Portland Windham

George Rowe  
28 Hanover St  
lived in neighborhood  
7 1/2 years -  
building has been  
neglected. Exterior has  
been improved.

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

Application & Exhibits

Has problems with  
building not inhabited by  
owners.  
IS concerned about  
sprinklers

Findings of Fact and Conclusions of Law:

The applicants are seeking a conditional use to legalize a non-conforming dwelling unit in their single-family home. The Zoning Administrator determined that the dwelling unit met the criteria for legalization, but lacked authority to approve the legalization due to an objection by a noticed party.

The Board of Appeals shall treat an application for legalization as a conditional use, applying the standards applicable to conditional uses as well as the requirements of § 14-391. § 14-391(g).

Findings:

1. 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. This standard is satisfied if all of the following are met. § 14-474(c).

a. 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:

*additional dwelling unit to residential building in a residential zone. adding 1 unit will add minimal traffic. Building abuts commercial area. Neighboring properties also multi-family*

b. 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:

*Concerns expressed by neighbors about litter. These are issues of management & possibly Code enforcement; Not related to legal use. Third residential unit to these conditions won't cause these conditions.*

- c. 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:

Residential use in residential zone. In B2b zone - mixed Commercial & residential. Building has been functioning as a 3 unit.

2. The nonconforming dwelling unit was either in existence April 1, 1995, or the structure in which they are located was originally designed to accommodate more than the number of such units presently in use.

✓ Satisfied 1924 tax record - shows 3 unit. In 1996, building was purchased as a 3-unit. Property taxes paid as a 3 unit. Building is designed as a triple decker. No evidence building has been altered. Record indicate had been used as 4 unit at one time.

3. The applicant neither constructed nor established the non-conforming dwelling unit.

✓ Satisfied

Building purchased in 1996 as a 3-unit. No evidence suggests applicants created 3rd unit

4. The nonconforming dwelling unit complies with or can be made to comply with current standards of the National Fire Protection Association Life Safety Code and the National Fire Protection Association 1: Fire Prevention Code.

✓ Satisfied

Email Jan 30, 2018 from Douglas  
Morin, <sup>city inspector,</sup> indicating property  
meets noted codes

5. The nonconforming dwelling unit complies with provisions of the City's Housing Code or can be made to conform with, as amended, including, but not limited to, the requirements of § 6-110, Minimum Standards for Space and Occupancy, § 6-111, Minimum Plumbing Standards, and § 6-112 Minimum Ventilation Standards.

✓ Satisfied

E-mail from Dory Moun - Building  
meets all requirements for  
habitability

6. The structure containing the nonconforming dwelling unit is located in the R-3, R-4, R-5, R-6 or R-7 Zones; or the B-1, B-1(b), B-2, B-2(b) or B-3 Zones.

Satisfied

Structure in B-2(b)  
Per zoning map.

Bambani, McCall

Conclusions:


Option 1: The Board finds that all of the standards described above have been satisfied, and therefore GRANTS the conditional use permit. *for a period of 2 YEARS*

Option 2: Pursuant to § 14-474(d), the Board has the authority to impose conditions on conditional use permits. The Board finds that all of the standards described above have been satisfied, however, certain reasonable 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 all of the standards described above have not been satisfied, and therefore DENIES the application.

Dated:

3-15-18

  
Board Chair