

CRAIG
HARRISON
AVERY
KANSIAPICAS

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

R-6 Residential Zone Day Care Facility:

Conditional Use Appeal

DECISION

SCANNED

Date of public hearing: May 7, 2015;

Name and address of applicant: Lorna M. Leo and Kiddie Garden, LLC
223 Brackett St.
Portland, ME 04102

Location of property under appeal: 237-239 Spring St.

For the Record:

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

~~Laurie + Mark Brooks, 1416 ORKNEY St.~~ Lorne Leo, James Leo
223 Brackett Street
Robert Hains

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

None other than application

Findings of Fact and Conclusions of Law:

The applicant, Kiddie Garden, LLC, is seeking approval of conditional use for a day care pursuant to § 14-137(c)(6) for up to (12) children on the first floor of a multi-use building at 237-239 Spring Street. The space is a vacant storefront located in a residential building in an R-6 Residential Zone.

A. Conditional Use Standards pursuant to Portland City Code §14-137(c)(6):

Day care facilities or home babysitting services not authorized as a home occupation under section 14-410, are permitted as conditional uses, provided that:

1. The facility is located in a structure in which there is one (1) or more occupied residential units;

Satisfied Not Satisfied

Reason and supporting facts:

Testimony that there are at least 3 occupied units, 4 are allowed

2. The maximum capacity of the proposed Day Care Facility is twelve (12) children;

Satisfied Not Satisfied

Reason and supporting facts:

Testimony that 12 children maximum + application

3. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts;

Satisfied Not Satisfied

Reason and supporting facts:

Reiche school playground + Taylor Street
playground, no play area on site

4. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides;

Satisfied Not Satisfied

Reason and supporting facts:

waste will be collected during business
hours, in closed containers, not on street

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:

School + Community Center across St.
Site was formerly / convenience store
multiple drop off spots in street

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:

Day care use won't generate glare/dust
etc. mentioned in standards
noise of children playing won't be
offensive or def - school is
across St.

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 changes to building / landscaping
contemplated
no greater impact than other uses in
neighborhood*


Conclusion: (check one)

Option 1: The Board finds that all of the standards (1 through 4) 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 through 4) 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: 5-7, 2015


Board Chair

SECRETARY,
ACTING CHAIR