McCall
Larsen
Avery
Katsoufis
Zamboni
Baldwin

Reviewed for Code Compliance
Inspections Division
Approved with Conditions
Date: 11/08/17

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

R-5 – Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: June 1, 2017

Name and address of applicant: Jon Bradstreet
2 D Street
South Portland, Maine 04106

Location of subject property : 73-75 Douglass Street
CBL 078 B003001

For the Record:

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

Jon Bradstreet
73-75 Douglass St.

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

Application & Exhibits

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Findings of Fact and Conclusions of Law:

The applicant is seeking an after-the-fact conditional use permit pursuant to § 14-118(a)(5) of the City of Portland Code of Ordinances to convert an existing two-family residence to a three-family residence with the addition of a third unit above an existing garage. The Board has authority to consider a conditional use permit application pursuant to § 14-474(a).

Findings:

The use of an existing space as of September 3, 2008 to accommodate an additional dwelling unit is permitted if it meets all of the requirements of § 14-118(a)(5)(a) – (h).

1. The space to be used to accommodate the additional dwelling unit has been in existence as of September 3, 2008. § 14-118(a)(5).

   Satisfied ✓ Not Satisfied ____

   Reason and supporting facts:

   Building Permit from 1992 for the garage. It contemplates unit. Applicant purchased in 2007, unit was in existence.

2. With the additional unit, there will be no more than four dwelling units on the lot and no more than two additional dwelling units on the lot above what would otherwise be permitted. § 14-118(a)(5)(a).

   Satisfied ✓ Not Satisfied ____

   Reason and supporting facts:

   2 units, asking to legitimize the third unit.

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3. The unit created under this section will not be sold as condominium unit or otherwi separated from the ownership of at least one of the pre-existing units on the site. § 14-118(a)(5)(b).

Satisfied ✓ Not Satisfied ____

Reason and supporting facts:

Applicant states it will not be made a condominium in his application

4. The unit created under this section will be affordable to households earning up to 80% of AMI and subject to income verification as further outlined in implementing regulations. § 14-118(a)(5)(c).

Satisfied ✓ Not Satisfied ____

Reason and supporting facts:

Application indicates applicant will sign a workforce housing agreement to meet this standard.

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5. The additional unit will have a minimum floor area of four hundred (400) square fe and will not involve removing more than ten percent of the gross floor area of an existing dwelling unit into a new dwelling unit. Gross floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level and may include the attic if such space is habitable. § 14-118(a)(5)(d).

Satisfied ✓ Not Satisfied ____

Reason and supporting facts:

dwelling unit is 576 SQ feet, in a free standing building. Doesn't require reducing gross square area of other building

6. Modifications to the existing structure will be minimal, and will be limited to new doors, windows and other openings. § 14-118(a)(5)(e).

Satisfied ✓ Not Satisfied ____

Reason and supporting facts:

no new construction contemplated.

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7. Parking shall be provided as required by Chapter 14, Division 20. § 14-118(a)(5)(f)

Division 20 provides that, for alterations or changes of use in existing structures, which create new or additional dwelling units in such structures . . . one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit. § 14-332(a)(2).

Satisfied ✓ Not Satisfied ____

Reason and supporting facts:

2 Garage bays for parking, 4 parking spaces. More than needed by the standard

8. There shall be no open, outside stairways or fire escapes above the ground floor. § 14-118(a)(5)(g).

Satisfied ✓ Not Satisfied ____

Reason and supporting facts:

No outside stairways. This is existing structure. Nothing is being added.

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9. The project shall be subject to Chapter 14, Article V site plan review and approval, with the following additional standards: i) Any additions or exterior alterations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single family appearance of the building; and ii) the scale and surface area of parking, driveways and paved areas shall be arranged and landscaped properly to screen vehicles from adjacent properties and streets. § 14-118(a)(5)(h).

Satisfied ✓ Not Satisfied ____

Reason and supporting facts:

no additions or exterior alterations are to be done. Structure already exists.

10. 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:

Residential structure in residential zone. Plenty of parking on site. Structure is already inhabited. Intensity of use won't change.

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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: residential use / won't cause these conditions / no public comment.

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, residential zone. Won't cause these conditions, no expansion of current use.

McCall, Larson

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Conclusions:

✓ Option 1: The Board finds that all of the standards described above have been satisfied, and therefore GRANTS the conditional use permit.

___ 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: 6-1-17

Board Chair