

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Carvin
Larsson
Avery
Celtz
Katsipras

R-3 Residential Zone:

Conditional Use Appeal

DECISION

Date of public hearing: October 1, 2015;

Name and address of applicant: Sandra Chaussee
263 Brighton Ave.
Portland, ME 04102

Location of property under appeal: 263 Brighton Ave. Portland, ME 04102

For the Record:

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

Sandra Chaussee
Patrick Leves, Esq. (Drummond + Drummond)

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

Application with attachments

granted 5-0

apply for change of use permit !
admin authorization.

Findings of Fact and Conclusions of Law:

The applicant, Sandra M. Chaussee, is seeking a Conditional Use in the R-3 Residential Zone under § 14-88(a)(2) to create an accessory dwelling unit at her single-family home. Her intention is to live in the first-floor accessory unit and lease the second and third floor as a single unit.

The project is subject to article V site plan review and approval that i) any additions or exterior alterations such as façade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building; and ii) the scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

A. Conditional Use Standards pursuant to Portland City Code §14-88(a)(2)

Alteration or construction of a single-family detached dwelling to accommodate an accessory dwelling unit within the building is permitted if:

1. The accessory dwelling unit is for the benefit of the homeowners or tenants;

Satisfied Not Satisfied

Reason and supporting facts:

Applicant intends to live in 1st floor unit.

2. The accessory unit has a minimum floor area of four hundred (400) square feet that represents no more than thirty (30) percent of the gross floor area of the principal building.¹

Satisfied Not Satisfied

Reason and supporting facts:

*testimony - 657 sq feet of
2070 of gross*

¹ "Gross floor area" excludes 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.

*floor area for
the accessory unit.*

3. There are no open, outside stairways or fire escapes above the ground floor.

Satisfied Not Satisfied

Reason and supporting facts:

*existing stairway grandfathered
under the ordinance.*

4. Any additions or exterior alterations such as façade materials, building form and roof pitch are designed to be compatible with the architectural style of the building, and its appearance as a single-family dwelling.

Satisfied Not Satisfied

Reason and supporting facts:

*no alterations will be
undertaken*

5. The lot size is at least six thousand five hundred (6,500) square feet of land area;

Satisfied Not Satisfied

Reason and supporting facts:

Lot size is 14,830 sq. ft.

6. No dwelling unit is reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in the basement or attic;

Satisfied Not Satisfied

Reason and supporting facts:

Remaining dwelling unit will be 1,600 sq. ft.

7. A minimum of one (1) additional parking space is provided for the additional unit, or there exists a minimum of three (3) parking spaces for the present unit.

Satisfied Not Satisfied

Reason and supporting facts:

4 parking spaces are available
2 car garage is available

8. The accessory or principal dwelling unit is occupied by the owner of the lot, except for bona fide absences of a temporary nature;

Satisfied Not Satisfied

Reason and supporting facts:

Owner of the lot will be living in the accessory unit per testimony + application.

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:

*residential, multi-family units.
nearby, as to Brighton medical*

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:

No material change from existing conditions. Residential use. No testimony in opposition

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:

Residential use. Residential zone. Maybe even smaller in scale than other uses

Conclusion: (check one)

Option 1: The Board finds that all of the standards (1 through 8) 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 8) 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 8) 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:

10-1-15



Board Chair

SECRETARY + ACTING
CHAIR.