

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

Mayer  
Avery  
Katharina  
Zamboni

R3 – Residential Zone  
**Conditional Use Appeal**

**DECISION**

Date of public hearing: January 5, 2017

Name and address of applicant: Elizabeth and Kenneth Harrington-Howes  
93 Clifton Street  
Portland, Maine 04103

Location of subject property : 130 Vannah Avenue (93 Clifton Street)  
CBL 128 D003001

**For the Record:**

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

Elizabeth + Kenneth Harrington-Howes  
93 Clifton St.  
Portland

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

Application w/ exhibits

Findings of Fact and Conclusions of Law:

The applicants are seeking a conditional use permit pursuant to § 14-88(a)(2) of the City of Portland Code of Ordinances to add a dwelling unit to an existing single-family residence. The Board has authority to consider a conditional use permit application pursuant to § 14-474(a).

An additional dwelling unit is permitted in a detached, single-family dwelling for the benefit of homeowners or tenants if it meets all of the requirements of § 14-88(a)(2)(a) – (j) (excepting the omitted (e) and (f)), as well as the requirements of § 14-474(c).

Findings:

1. The alteration is of a detached single-family dwelling, will accommodate only one additional dwelling unit, and the dwelling unit will be for the benefit of the homeowners or tenants. § 14-88(a)(2).

Satisfied  Not Satisfied

Reason and supporting facts:

*one unit in the basement  
rented to residential tenant.*

2. The accessory unit shall be no more than 30% of the gross floor area of the principal building and shall have a minimum floor area four hundred (400) square feet. 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, but may include attic space if such space shall be included as habitable space within either dwelling unit. § 14-88(a)(2)(a).

Satisfied  Not Satisfied

Reason and supporting facts:

*accessory unit is 25% of allowable  
gross floor area - 717 sq. ft.*

3. There will be no open outside stairways or fire escapes above the ground floor. § 14-88(a)(2)(b).

Satisfied  Not Satisfied

Reason and supporting facts:

*application indicates none  
no changes to exterior of  
building*

4. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling. § 14-88(a)(2)(c).

Satisfied  Not Satisfied

Reason and supporting facts:

*no exterior changes to building are  
contemplated*

5. The lot size is a minimum of six thousand five hundred (6,500) square feet. § 14-88(a)(2)(d).

Satisfied  Not Satisfied

Reason and supporting facts:

*8,712 sq feet for lot size*

6. No dwelling unit will be reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic. § 14-88(a)(2)(g).

Satisfied  Not Satisfied

Reason and supporting facts:

2108 sq. feet for main dwelling unit

7. Parking shall be provided as required by Chapter 14, Division 20. § 14-88(a)(2)(h).

Division 20 provides that, for accessory units pursuant to § 14-88, one additional parking spaces for each such unit shall be required. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one space for each dwelling unit. § 14-332(a)(2).

Satisfied  Not Satisfied

Reason and supporting facts:

1 space available - 2 in tandem in garage  
4 in driveway

8. The project shall be subject to site plan review and approval, including the following additional standards: i) Any additions or exterior alterations such as facade 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. § 14-88(a)(2)(i).

Satisfied  Not Satisfied

Reason and supporting facts:

*No planned changes to  
parking spaces or landscaping*

9. Either the accessory unit or principal unit will be occupied by the lot owner, except for bona fide temporary absences. § 14-88(a)(2)(j).

Satisfied  Not Satisfied

Reason and supporting facts:

*Owners intend to occupy  
Principal unit*

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 use in residential zone, not expanding parking area or area of pavement.*

- 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 in residential area - no public objections -*

- 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 - no public input saying these are issues*

Conclusions:

*Mayer, Zankari*

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:

*1-5-17*

*[Signature]*

Board Chair