

City of Portland  
Zoning Board of Appeals  
389 Congress Street  
Portland, Maine 04101

RE: Conditional Use Appeal/161 Clinton Street

Dear Zoning Board of Appeals Members

March 2<sup>nd</sup>, 2015

My name is Karen Pitts and I reside at 165 Clinton Street. I am representing myself and Christine Gilman as joint owners of 165 Clinton Street, a single family home located next to the Applicants business. We are the closest neighbor and the most immediately impacted by the proposed zoning Conditional Use Appeal to permit a "12-Child Daycare Facility" which is located within 3 feet from our home. We are writing this statement letter to strongly and adamantly oppose the application. We believe that the current day care already creates excess noise and traffic and any increase in children will make it even more unbearable for the neighbors already negatively effected by this home occupancy business. Our neighborhood is mostly comprised of older, self-employed/retired professionals who are at home throughout the day. We feel that a "12-Child Daycare Facility" will have a substantial impact on an already high-density neighborhood. Houses are very close together and lot sizes are small. The photo below shows how close my house is to the Applicants.



The three areas of most concern are: Noise, Traffic and Parking. Currently, the applicant, Lynn Rutter carries out much of her daily business activities in the driveway and garage. The established play area is located on the paved driveway and garage next to our house and under our windows where we work. This is our home and our property where the children are playing (see photo below).



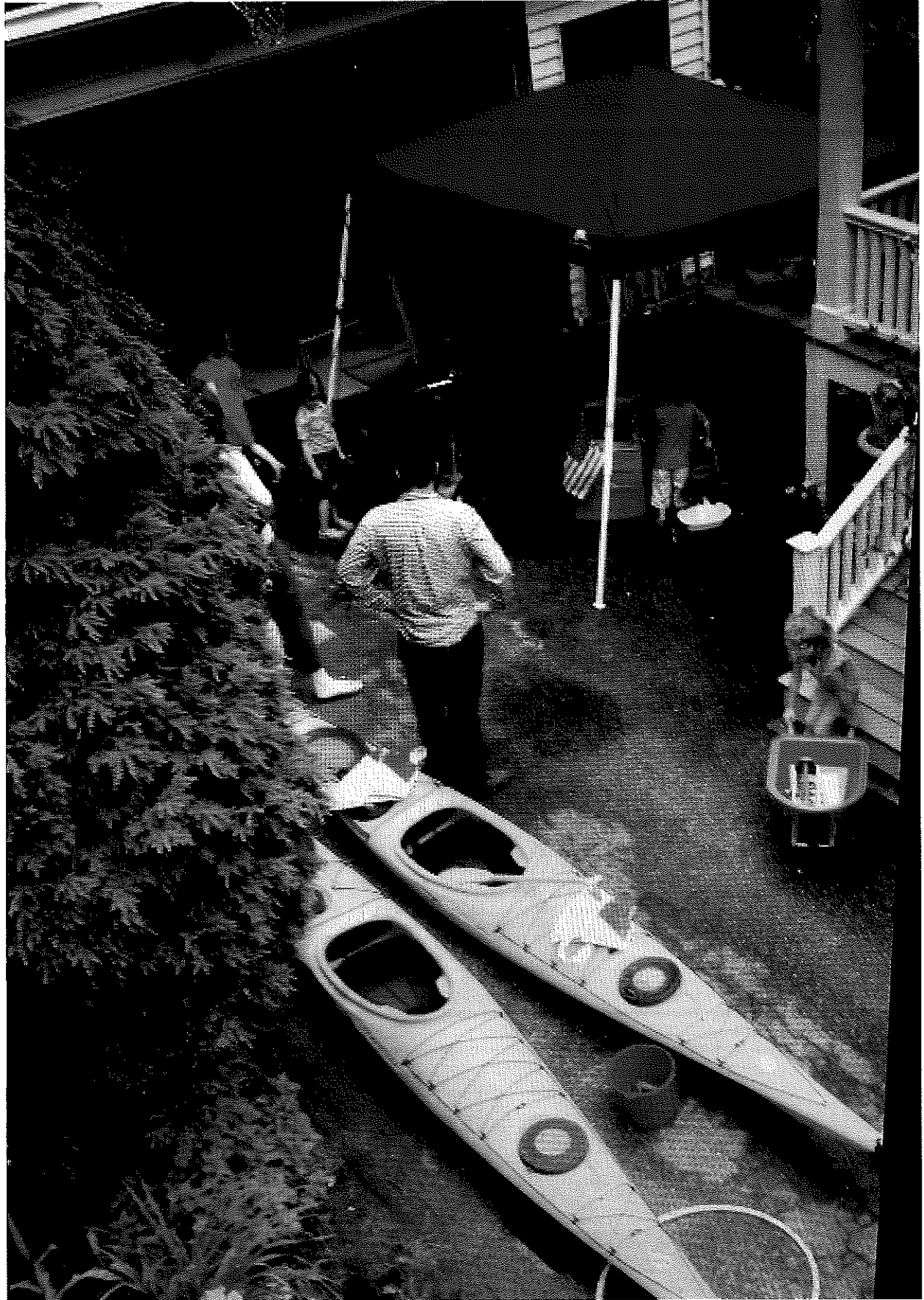
This photo was taken a few weeks ago and posted by the applicant on the Roots & Shoots Facebook page. The applicant very rarely uses her back & side yard as attested in her application. As you can see, a play area has been set up in the driveway during the winter months. The photo below is the direct view outside of my window.



There is absolutely no buffer between the two homes. There is not a fence or landscaping to mitigate the noise level emanating from her daycare operations. The grassy, landscaped photo of the side yard the applicant provided in her application is misleading as it is not the main designated play area for her daycare operations. It is the Driveway that is the play area. Our video and photo evidence is the proof and cannot be disputed. In her application, she does not explicitly specify where these children play except to note that they “often visit Baxter Woods, Evergreen Cemetery, etc., for trips. She uses her driveway that abuts our house as the children’s fixed play area for several hours every day of operation , especially in the warmer months. We took these videos and photos to demonstrate how Roots & Shoots daycare severely impacts our quality of life, disrupts our ability to work and make a living, and causes considerable stress in our home. There is no consideration for us as a neighbor to this business.



She also utilizes her garage, located at the end of her driveway, by conducting activities inside the garage during the warmer months (see photo below), which by code is to be for storage only. Please note that applicant did not list the use of her the garage or driveway as part of her home occupation site plan.



**As a result of Ms. Rutter's choice of play area location, both her driveway and her house function acoustically as an amphitheater amplifying and projecting sound from the daycare activities. We have been uniquely impacted by the excess noise from the children, the applicant, the activities, and the parents congregating directly under our homes windows. This noise cannot be mitigated and there is no buffer between our home and hers.** It's a daily occurrence to hear noise levels (screaming, crying and banging) during operation hours that are extremely loud and disruptive to our everyday normal life. Parents often congregate and participate in the driveway activities and linger creating more noise and parking issues for the dense neighborhood. On June 23<sup>rd</sup> 2014 we called the code enforcement department to make a complaint to due to the excessive noise. The code officer by the name of Chuck was quoted as saying, "What's wrong, children playing is bothering you. That's on the bottom of the totem pole of code offenses". He then laughed. We were left with the impression that our complaint about the impact this home business was having on us was not taken seriously. The code for home use businesses clearly states that there can be no offensive noise. It does not say it has to be measured in decibels. The noise from this home business is objectionably loud.





About the parking. Each morning, the applicant moves their personal vehicles from their driveway and parks them in front of neighbor's houses all day so the applicant can operate the daycare in her driveway. In her application, the applicant wrote that "*Many parents walk from neighboring homes, car pool and arrive and depart at varying times. They can pull in our driveway from drop off and pick up. There maybe at most (3) additional cars for a five-minute period*". The number of potentially permitted 12 children and additional staff would generate a minimum of 24 trips per day in addition to existing traffic issues on Clinton Street and would last more than the applicant's estimate of five minutes. This statement is false as we have observed most of the parents drive (not walk) and the current drop off/pick up time is rarely five minutes especially in warmer months. Parents congregate in the driveway to talk with one another and often stay and play in the driveway (as seen in video and photos). The increase in traffic is in addition to the Veterans Center is located with proximity (500ft) of the daycare and parking is exacerbated when the center overflows with Veterans attending programs offered by the center. Additional existing issues are compounded by the fact that during peak hours of Deering High & Lincoln Middle School AM/PM sessions, traffic is heavy, compounded by the current daycare parents searching for parking spaces. The proposed increased enrollment of the daycare will adversely impact the ability of neighbors to park cars on their own street when they chose to where parking is already an issue.

Lastly, in addition to all the other rules the applicant disregards, she draws attention to her business with signage on the front lawn (city property) several feet from her house. This too violates the home occupancy rules. As you can see, this sign is not affixed to her home.



We already oppose the applicant operating the current business in our neighborhood as it is offensively loud. We should not be forced to absorb the impact of the Roots & Shoots daycare in, on and around our homes and the loss in property value that goes with it. It is not a right to have a home business but a privilege that should not impact the neighbors in anyway. The applicant appears to have no regard for its impact on her neighbors. We respectfully request that the City stop the impact by denying this application and we ask that you revoke the current home use license due to it's negative impact on our ability to work and be comfortable in our own home. Thank you for your consideration.

Sincerely,

Karen F. Pitts & Christine Gilman

165 Clinton Street

Portland, Maine 04101

karen@alliancecm.me