

Garvin
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Laurin
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CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

R-P Residence-Professional Zone Daycare Facility:

Conditional Use Appeal

DECISION

Date of public hearing: January 21, 2016;

Name and address of applicant: Gina Kostopoulos
North Deering Children's Academy
5 Bramblewood Drive
Portland, ME 04103

Location of property under appeal: 970 Forest Ave.
Portland, Maine 04103

For the Record:

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

Gina Kostopoulos
5 Bramblewood
Portland

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

Application + Exhibits

Findings of Fact and Conclusions of Law:

The applicant is seeking a Conditional Use pursuant to § 14-147.5(e) to operate a licensed childcare center for up to 80 children at an existing commercial building used most recently for medical offices.

A. Conditional Use as a daycare facility, home babysitting service, nursery school, and kindergarten that serves more than 12 children is permitted pursuant to § 14-147.5(e) so long as:

1. Proof of licensing with the Maine Department of Human Services is submitted to the city prior to issuance of a certificate of occupancy.

Satisfied Not Satisfied

Reason and supporting facts:

DHHS is aware of application and license is in progressive.

2. The facility provides a minimum of seventy-five (75) square feet of outdoor play area per child.

Satisfied Not Satisfied

Reason and supporting facts:

There is testimony + application shows more than 6500 ft² total = 78 sq. feet per child if there are 80 children.

3. The play area is located in the side and rear yard only and shall not be located in the front yard.

Satisfied Not Satisfied

Reason and supporting facts:

Forest Ave is front - play area will not be in front per testimony.

4. Outside play areas are separated from abutting properties by a fence at least forty-eight (48) inches in height.

Satisfied Not Satisfied

Reason and supporting facts:

Most fencing in place. 72 inches high.
new portion of fence will be same height.

5. A ten-foot (10') wide landscaped buffer is outside of the fenced play area, and is in accordance with the landscaping standards of the city's technical standards and guidelines.

Satisfied Not Satisfied

Reason and supporting facts:

Owner of building will place 10' landscape buffer. - more bushes, 5^{to 6} trees currently exist.
City will review barrier through administrative site plan.

6. The lot size is at least six thousand (6,000) square feet.

Satisfied Not Satisfied

Reason and supporting facts:

playground space is 6500 sq feet →
greater than 6,000

7. Off-street parking is provided on the site for all staff of the facility, does not interfere with access to use of play areas, and is not located closer than five (5) feet from the property line of any abutting residential use or residentially zoned site.

Satisfied Not Satisfied

Reason and supporting facts:

17 spaces provided, 12-13 spaces for staff. All access will be through building. There will be no access through parking area.

8. Any additions or exterior alternations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building or preserve the residential appearance of the building.

Satisfied Not Satisfied

Reason and supporting facts:

No exterior additions or facade changes. Only a sign will be added to a post near street. A privacy fence will be erected.

B. 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.

No testimony of greater impact of vehicle traffic. ^{Public} regular customer traffic at surrounding uses of 4 commercial spaces buildings in vicinity.

Satisfied Not Satisfied

Reason and supporting facts:

See above

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 indication there would be any of these conditions created. Similar use existed on site before. Litter would be accumulated in appropriate locations.

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:

Compliance w/ ^{and} vegetative screening standards will mean property ~~to in compliance~~ will not have a greater impact. Standards applicable to this application are stricter than surrounding uses.

Conclusion: (check one)

Gavin, Cety

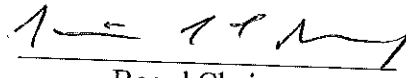
Option 1: The Board finds that all of the standards in A.(1 through 8) above have been satisfied, and that all of the standards in B.(1 through 3) above have been satisfied and therefore GRANTS the application.

Option 2: The Board finds that standards A.(1 through 8) described above have been satisfied, and that all of the standards in B.(1 through 3) above have been satisfied, and therefore GRANTS the application, however it does so SUBJECT TO THE FOLLOWING CONDITIONS:

Option 3: The Board finds that not all of the standards A.(1 through 8) have been satisfied and/or that not all of the standards B.(1 through 3) described above have been satisfied and therefore DENIES the application.

Dated:

1-21-16


Board Chair