

Joseph Zamboni  
Donna Katsiapias  
Chip Gava  
Kent Avery  
ERIC Laesso

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

R-5 Residential Zone  
Interpretation Appeal

### DECISION

Date of public hearing: May 5, 2016

Name and address of Appellant: Ryan McKown  
252 Concord St. West  
Portland, Maine 04103

Location of property under appeal: 252 Concord St. West  
Portland, Maine 04103

### For the Record:

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

Ryan ~~McKown~~ McKown  
252 CONCORD ST. W  
Portland

Tracie Reed, Architect  
46 Cushman St. #4  
Portland

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

Application w/ exhibits

Findings of Fact and Conclusions of Law:

The Board derives authority to review orders, decisions, determinations and interpretation of the building authority pursuant to Section 14-472 of the land use code.

The Appellant appeals from the determination of the Zoning Administrator that a cupola that Appellant seeks to construct, is not a "roof structure" pursuant to § 14-430(a), which would exempt it from height limits imposed by code.

§ 14-430(a) provides:

Roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, skylights, steeples, roof signs, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitation herein prescribed for buildings. Roof-mounted wind energy systems shall not be considered to be roof structures for the purposes of Article X, Alternative Energy.

Finding:

1. Appellant has demonstrated that the Interpretation of the Zoning Administrator that the planned cupola is not a "roof structure" pursuant to § 14-430(a) was incorrect or improper.

Satisfied  Not Satisfied

3-2 (Zawinski  
Larsson)

Reason and supporting facts:

Architectural improvement to the property  
Aesthetic improvement  
Ordinance appears to be intended for  
mechanical equipment or building  
systems  
Ordinance is intended not to create or  
allow living space  
Intent of the cupola is to allow  
viewing of the neighborhood - appears to  
stretch the intent of the  
Ordinance.

**Decisions:** (check one for each item)

Option 1: The Board finds that the Appellant has satisfactorily demonstrated that the Interpretation of the Zoning Administrator that the planned cupola is not a "roof structure" pursuant to § 14-430(a) was incorrect or improper.

Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Zoning Administrator that the planned cupola is not a "roof structure" pursuant to § 14-430(a) was incorrect or improper.

*Cavin, Katsopoulos*

3-2

*(Zamboni  
Larson)*

Dated: 5-5-16

*[Signature]*

Board Chair