

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

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Disability Variance Appeal

DECISION

Date of public hearing: January 8, 2015

Name and address of applicant: Alpha One (On behalf of Danice Jacobson)
Attn: Jill Johanning
127 Main Street
South Portland, ME 04106

Location of property under appeal: 72 Westminster Avenue

For the Record:

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

Jill Johanning, Alpha One

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

Findings of Fact and Conclusions of Law:

The applicant seeks a variance under section 14-473(c)(2) for a handicap ramp that has been built at the property of Danice Jacobson at 72 Westminster Avenue. The property is located in the R-3 zone, which has a side setback requirement of 8 feet under section 14-90(d)(3). The applicant requests a side setback of four feet instead of the required eight feet.

Disability Variance standard pursuant to Portland City Code §14-473(c)(2):

1. The variance is for the purpose of making the property accessible to a person with a disability who resides in or regularly uses the dwelling. "Disability" has the same meaning as a physical or mental disability under 5 M.R.S.A. Section 4553, which is:
 - A. A physical or mental impairment that:
 - (1) Substantially limits one or more of a person's major life activities;
 - (2) Significantly impairs physical or mental health; or
 - (3) Requires special education, vocational rehabilitation or related services;
 - B. Without regard to severity unless otherwise indicated: absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; intellectual disability; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury;
 - C. With respect to an individual, having a record of any of the conditions in paragraph A or B; or
 - D. With respect to an individual, being regarded as having or likely to develop any of the conditions in paragraph A or B.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

Ms Jacobson lives in the dwelling. She has a disability recognized under the ADA that physically impairs her major life activities

2. Any variance granted under this subsection shall be solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

Satisfied 6 Not Satisfied 0

Reason and supporting facts:

The ramp is for ^{solely for the} purpose of installing an access ramp.

Conclusion: (check one)

Option 1: The Board finds that the standards described above (1 and 2) have been satisfied and therefore GRANTS the application.

6-0 Option 2: The Board finds that while the standards described above (1 and 2) have been 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:

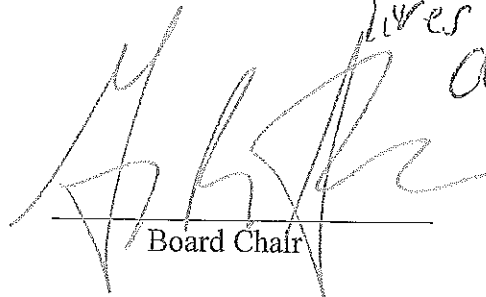
Board's Approval is limited to duration of

~~The ramp shall be removed when no longer needed by Ms. Jacobsen's disability or the time that~~

Option 3: The Board finds that the standards described above (1 and 2) have NOT all been satisfied and therefore DENIES the application.

Ms. Jacobsen lives in the dwelling.

Dated: 1-8-2015


Board Chair