

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

3000 Members
Present:
Dana Kaitchik
Sara Mapp
Gordon Smith
Chip Gavin
Eric Larssen
Kent Avery
(revised)

R-5 Small Residential Zone Parking Lot Expansion:

Conditional Use Appeal

DECISION

Date of public hearing: January 8, 2015

Name and address of applicant: Eyecare Medical Group
Attn: Terry Wogan
53 Sewall Street
Portland, ME 04102

Prepared By:
Sebago Technics, Inc.
75 John Roberts Road, Suite 1A
South Portland, ME 04106

Location of property under appeal: 53 Sewall Street

For the Record:

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

Craig Burgess, Sebago Technics
Dale Holman, lives one street over

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

Proposed ~~pa~~ site plan, Sebago Technics
Photos of pond, Dale Holman

Findings of Fact and Conclusions of Law:

The applicant proposes an off-street parking lot expansion for the Eyecare Medical Group, which is located at 53 Sewall Street, and seeks a Conditional Use Appeal under section 14-118(c)(1) to allow off-street parking of passenger cars which are accessory to a use located in a nearby business zone. The applicant proposes to build the parking lot on land it leases from Central Maine Power Company, and the furthest point of the proposed lot will be approximately 210 feet from the Eyecare Medical Group's principal building at 53 Sewall Street.

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A. Conditional Use Standards pursuant to Portland City Code §14-344:

In R-3 through R-5 zones, the Board of Appeals may permit off-street parking for passenger cars only accessory to a use located in and conforming with the provisions of a nearby business or industrial zone (except B-1 zones) if:

1. The lot on which the use is proposed is located wholly within three hundred (300) feet, measured along lines of public access, of the principal building of the use to which the proposed use would be accessory.

Satisfied 5 Not Satisfied 0

The use is for off street parking.

Reason and supporting facts:

The use is accessory to a use located in a nearby business zone

The lot is 210 feet from Eyecare Medical Group's principal building.

2. The lot where the parking use is proposed shall be under the control of the owner of the use to which the parking use would be accessory. Evidence of such control by deed or lease shall be required before the certificate of occupancy is issued. If such control should be abrogated, the parking use thus allowed shall automatically revert to a nonconforming use in violation of this article and shall be terminated forthwith.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

Lot is under control of owner in part by deed and in part by lease.

B. Conditional Use Standards pursuant to Portland City Code §14-474(c)(2):

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.

Yes 5 No 0

Reason and supporting facts:

Traffic will be limited to employee parking during normal business hours. The use will be about an existing parking lot in the R-5 and all traffic will enter and exit in the R-P zone. No testimony has been provided by ^{the parking lot}

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.

Yes 5 No 0

Reason and supporting facts:

Lights will be limited to 6am to 8pm. Evidence presented shows that the stormwater system was

designed to improve the runoff to neighboring properties and the

calculations have been peer reviewed by City Engineer.

any abutter ~~dissemination~~ that there will be a problem with vehicle traffic.

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.

Yes 56 No 0

Reason and supporting facts:

A buffer strip of trees will be preserved to protect adjacent properties. To the south is a CMP substation that will not be impacted by a parking area.

Another abutting property contains a similar parking area.

For the foregoing reasons, impacts will not have a substantially greater impact on surrounding properties.

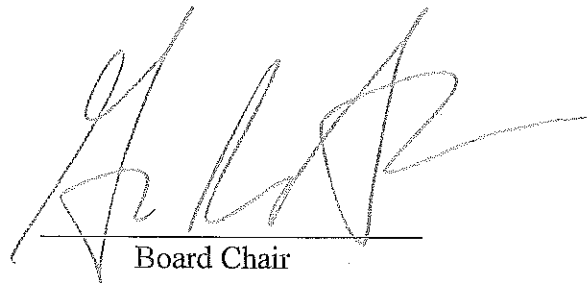
Conclusion: (check one)

5-0 Option 1: The Board finds that all of the standards (1 and 2) described in section A above have been satisfied and that all relevant standards (1 through 3) described in section B above have been satisfied and therefore GRANTS the application.

Option 2: The Board finds that all of the standards (1 and 2) described in section A above have been satisfied, and that while all relevant standards (1 through 3) described in section B above 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:

Option 3: The Board finds that not all of the standards (1 and 2) described in section A above have been satisfied and/or that not all relevant standards (1 through 3) described in section B above have been satisfied and therefore DENIES the application.

Dated: 1-8-2015


Board Chair