

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

ZONING BOARD APPEAL DECISION

To: City Clerk

From: Ann Machado, Zoning Administrator

Date: June 4, 2015

RE: Action taken by the Zoning Board of Appeals on May 21, 2015

Members Present: Sara Moppin (chair), Kent Avery (secretary), William Getz, and Donna Katsiaficas.

Members Absent: Chip Gavin and Gordon Smith

1. Old Business:

A. Conditional Use Appeal:

1342-1348 Congress Street, Jewish Community Alliance of Southern Maine, buyer, Tax Map 191, Block B, Lots 016 & 017, R-5 Residential Zone: The applicant is seeking a Conditional Use Appeal under section 14-118(c)(3) to operate a daycare/preschool for up to 68 students and an afterschool program for up to 20 students in part of the proposed building. Representing the appeal is Steve Brinn from the Jewish Community Alliance of Southern Maine. *The Board of Appeals voted 5-0 to grant the appeal for a period of two (2) years.*

2. Adjournment

Enclosure:

Decision for Agenda from May 21, 2015

One DVD

CC: Michael Sauschuck, Acting City Manager

Jeff Levine, AICP, Director Planning & Urban Development

Alex Jaegerman, Planning Division

Mary Davis, Housing and Neighborhood Services Division

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

R-5 Residential Zone Day Care Facility:

Conditional Use Appeal

DECISION

Date of public hearing: May 21, 2015;

Name and address of applicant: Jewish Community Alliance of Southern Maine
57 Ashmont Street
Portland, ME 04103

MARY COSTIGAN, - BERNSTEIN SHUR
DAN PEARL
ESTR.

Location of property under appeal: 1342-1348 Congress Street

GREG HALSEY

For the Record:

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

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

Findings of Fact and Conclusions of Law:

The applicant, Jewish Community Alliance of Southern Maine, is requesting approval of Conditional Use for a daycare/preschool facility per § 14-118(c)(3) for up to 68 students and an afterschool program for up to 20 students in part of a proposed building at 1342-1348 Congress Street.

A. Conditional Use Standards pursuant to Portland City Code §14-118(c)(3):

Day care facilities or home babysitting services not authorized as a home occupation under section 14-410, are permitted as conditional uses, provided that:

1. The facility is located in ^A principal structure that has not been used as a residence in whole or in ^A part within the (5) years immediately preceding the application;

Satisfied Not Satisfied

Reason and supporting facts:

APPLICATION + TESTIMONY
REFLECT THAT A NEW
BLDG IS BEING CONSTRUCTED

2. The structure is subject to Site Plan review;

Satisfied Not Satisfied

Reason and supporting facts:

ANIV MACHADO CONFIRMED

3. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts;

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

APPLICATION + TESTIMONY
REFLECTS ADEQUATE
SCREENING - FENCE +
SHURBERRY

4. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides;

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

APPLICATION + TESTIMONY
REFLECTS THAT A DUMPSTER
WILL BE SCREENED BY
FENCING.

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

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 5

Not Satisfied 0

Reason and supporting facts: APPLICATION + TESTIMONY

THE PARCEL IS SURROUNDED BY DENTAL OFFICE + SHOPPING CENTER NEW BLDG. WILL IMPROVE CONDITIONS OVER THE PRIOR BLDG.


Conclusion: (check one)

Option 1: The Board finds that all of the standards (1 through 4) described in section A above have been satisfied and that all of the standards (1 through 3) described in section B above have been satisfied, and therefore GRANTS the application, FOR A PERIOD OF 2 YEARS.

Option 2: The Board finds that while all of the standards (1 through 4) described in section A above have been satisfied, and that while all standards (1 through 3) described in section B above are 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 through 4) described in section A above have been satisfied and/or that not all of the standards (1 through 3) described in section B have been satisfied, and therefore DENIES the application.

Dated: May 21, 2015


Board Chair

5-0
IN
FAVOR