

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

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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  
ESTR.

Location of property under appeal: 1342-1348 Congress Street

DAN PEARL  
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 <sup>A</sup> principal structure that has not been used as a residence in whole or in <sup>A</sup> 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  
@ 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.

5-0  
IN  
FAVOR

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