

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

R-2 Residential Zone Accessory Unit

### Conditional Use Appeal

#### DECISION

Date of public hearing: July 18, 2013

Name and address of applicant: Timothy Raymond (on behalf of himself and  
co-owner Judith Raymond)  
110 Cobb Avenue  
Portland, ME 04102

MARK BOWEN  
WILLIAM GETZ (ACTING CHAIR)  
KENT AVLEY  
ERIC LARSSON (ACTING SECRETARY)

Location of property under appeal: 110 Cobb Ave.

#### For the Record:

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

TIM RAYMOND 110 COBB AVENUE (APPLICANT)

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

APPLICATION AS SUBMITTED

Findings of Fact and Conclusions of Law:

Applicant is proposing to add an accessory dwelling unit to his single family home in which he resides. The accessory dwelling will be used as a rental unit. The gross floor area of the principal building will be 2638 sq. ft. The proposed accessory unit would be 672 sq. ft. The lot area is 10,000 sq. ft.

A. Conditional Use Standards pursuant to Portland City Code §14-78(a)(2):

1. The accessory dwelling unit is within the building and clearly subordinate to the principal dwelling and is for the benefit of homeowners or tenants.

Satisfied  Not Satisfied

Reason:

APPENDUM & TESTIMONY SUPPORT FINDING  
THAT PRINCIPAL STRUCTURE WITH GARAGE WILL TOTAL  
2638 SF AND ACCESSORY UNIT WILL BE 672 SF WITH ROOFLINE  
BELOW PRINCIPAL, EXISTING SINGLE FAMILY HOME AND SUBORDINATE  
TO PRINCIPAL HOME & GARAGE

2. The accessory unit shall be no more than thirty (30) percent of the gross floor area of principal building and shall have a minimum floor area four hundred (400) square feet; gross floor area shall exclude any floor area that has less than two-thirds of its floor-to ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit.

Satisfied  Not Satisfied

Reason:

USING THE SQUARE FOOTAGE CALCULATIONS  
IN A(1) ABOVE THE ACCESSORY UNIT  
WILL BE APPROXIMATELY 24 PERCENT OF  
THE PRINCIPAL STRUCTURE

3. Lot area shall be eight thousand (8,000) square feet for single-family dwellings in existence as of May 1, 1984, and lot area shall be ten thousand (10,000) square feet for single-family dwellings constructed after May 1, 1984.

Satisfied  Not Satisfied

Reason:

SITE PLAN SHOWS 100' X 100' LOT  
TOTALING 10,000 SF.

4. There shall be no open outside stairways or fire escapes above the ground floor.

Satisfied  Not Satisfied

Reason:

DRAWINGS & TESTIMONY INDICATE ALL STAIRWAYS ARE ENCLOSED & NONE ARE EXTENSION

5. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling.

Satisfied  Not Satisfied

Reason:

DRAWINGS SHOW ADDITION TO BE COMPATIBLE WITH PHOTOS OF EXISTING SINGLE FAMILY DWELLING AND SURROUNDING HOMES

6. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

Satisfied  Not Satisfied

Reason:

ADDITIONAL PARKING INCLUDES 2-CAR GARAGE THAT WILL FULLY SCREEN ADJACENT PROPERTIES & STREET WITH EXISTING VEGETATION TO SCREEN DRIVEWAY AREA

7. Either the accessory unit or principal unit shall be occupied by the lot owner, except for bona fide temporary absences.

Satisfied  Not Satisfied

Reason:

APPLICANT TESTIMONY & SUPPORTING  
LETTER STATE THAT APPLICANT CO-OWNER  
DOES AND SHALL RESIDE IN THE  
PRINCIPAL STRUCTURE

8. Parking shall be provided as required by division 20 of this article: One (1) additional off-street parking space for each new unit (14-332(a)(2)). Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.

Satisfied  Not Satisfied

Reason: APPLICATION SHOWS ADDITION  
OF TWO GARAGE SPACES  
AS WELL

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

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

Yes  No

Reason and supporting facts:

ABUTTING PROPERTIES HAVE ACCESSORY  
DWELLING AND FULL APARTMENT  
PLAN APPLICATION AND TESTIMONY

2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.

Yes \_\_\_ No

Reason and supporting facts:

APPLICATION AND TESTIMONY INDICATE IMPACT WILL BE THAT OF A RESIDENTIAL DWELLING. NO OPPOSING TESTIMONY

3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

Yes \_\_\_ No

Reason and supporting facts:

APPLICATION & TESTIMONY INDICATE ACCESSORY DWELLING SIMILAR TO OTHER NEIGHBORING PROPERTIES.

**Conclusion:** (check one)

Option 1: The Board finds that all of the standards (1 through 8) described in section A above have been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application.

Option 2: The Board finds that while all of the standards (1 through 8) described in section A above have been satisfied, and not all of the conditions (1 through 3) described in section B above are present, 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 8) described in section A above have been satisfied and/or that all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

Please note that, pursuant to Portland City Code 14-78(a)(2)(e), if approved the project shall be subject to article V (site plan) of this chapter for site plan review and approval.

Dated:

  
Board Chair