

Larsson  
Zamboni  
Kotsiopoulos  
Avery  
Mazel  
Cavin

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

R-2 Residential Zone  
**Disability Variance Appeal**

**DECISION**

Date of public hearing: November 17, 2016

Name and address of Appellant: William Fogel  
67 Kingsmark Lane  
Portland, Maine 04102

Location of property under appeal: 67 Kingsmark Lane  
CBL 226 A013001

For the Record:

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

William Fogel  
Melinda Moken  
67 Kingsmark Lane

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

Application + Exhibits

Findings of Fact and Conclusions of Law:

The applicant is seeking a disability variance from the requirements of City of Portland Code of Ordinances Sec. 14-80(d)(1), which require that accessory structures have a front yard of 25 feet. The applicant asks to reduce the front yard to six feet in order to construct a walkway and railing system to the front entrance of the dwelling. *Set back*

The Board of Appeals has jurisdiction to hear and grant or deny applications for disability variances pursuant to Sec. 14-471.

Findings:

Sec. 14-473(c)(2) provides that, a disability variance is available 1) “for the purpose of making that dwelling accessible to a person with a disability;” 2) “who resides in or regularly uses the dwelling;” and 3) the variance is for the “installation of equipment or the construction of structures necessary for access to or egress from the dwelling.” A disability is defined pursuant to 5 M.R.S. § 4553-A. *Id.*; 5 M.R.S. § 4553(7-A).

1. The variance requested is for the purpose of making the dwelling accessible to a person with a disability;

Satisfied  Not Satisfied

*Page 5, physician's letter indicates disability*

2. The disabled person resides in or regularly uses the dwelling;

Satisfied  Not Satisfied

*Application indicates residence of disabled person.*

3. The variance is for the "installation of equipment or the construction of structures necessary for access to or egress from the dwelling;"

Satisfied

Not Satisfied

Pages 8 & 17, 18 of application provide construction details of a ramp.

**Decision:**

Gavin, Zumboni

Option 1: The Board finds that the applicant has satisfactorily met the standards for a disability variance and GRANTS the variance without limitation.

Option 2: Pursuant to Sec. 14-473(c)(2), the Board may impose conditions on a disability variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The Board finds that the applicant has satisfactorily met the standards for a disability variance and GRANTS the variance with the following conditions:

Option 3: The Board finds that the applicant has NOT satisfactorily met the standards for a disability variance and DENIES the variance.

Dated:

11/17/10

  
Board Chair