

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

R-3 Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: September 7, 2017

Name and address of applicant: Dawn Ouellette, Chief Financial Officer
Opportunity Alliance
50 Lydia Lane
South Portland, ME 04106

Location of property under appeal: 1519 Forest Avenue
CBL 338 J015001
CBL 338 J016001
CBL 338 J025001

For the Record:

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

Joe Zamboni disclosed that he worked for Opportunity Alliance in the past asked for objection - no objection

- ① Michael Tarpinian - ex Director, Opportunity Alliance
- ② Wendy Dubois - V.P., Opportunity Alliance
- ③ Colin O'Neill, AC, Juvenile corrections, State of Maine

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

- ④ August 10, letter for ZOA
- ① Application materials
- ② submitted comments
- ③ late submitted comments for Marjheen Chann

Additional witnesses:

- ④ Hugh Hill 29 East Lawn Rd. (adjacent to property)
- ⑤ Elise Scalin 100 Lexington Ave. (adjoining street)
- ⑥ William Lewis 17 West Lawn Rd. (adjoining street)
- ⑦ Debbie Lewis 30 East Lawn Rd. (adjacent street)

Findings of Fact and Conclusions of Law:

The applicant is seeking a Conditional Use Appeal pursuant to § 14-88(a)(1) and § 14-474 to permit a sheltered care group home for a Department of Corrections community reintegration program for juveniles.

Findings:

A sheltered care group home is permitted if it meets all of the requirements of Portland City Code §§ 14-88(a)(1) and § 14-474.

A. Sheltered care group homes, must meet the following requirements pursuant to § 14-88:

1. The proposed project meets the definition of a sheltered care group home. A sheltered care group home serves up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users. §§ 14-88(a)(1), 14-47.

Satisfied 4 Not Satisfied 1

Reason and supporting facts:

*Question is not "parolees" but "pre-release"
Attorney general's letter was not contradicted,
by other testimony or evidence. State
Language appears to make distinction
between juvenile and adult corrections.*

2. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

*No evidence of another shelter
care home within 500 ft.*

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

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

No evidence of outside stairways or fire escapes.

4. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

Applicant made clear there is no "licensing requirement" for this facility. But they have shown adequate staffing with 3 staffing to 6 juveniles (day) and 1 per evening.

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 normally occur from surrounding uses or other allowable uses in the same zoning district. Accordingly, the Board shall only grant approval if each of the following is satisfied:

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.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

Testimony indicates volume will not increase by more than 3-4 vehicles. Residents will not have vehicles. Seems consistent with residential use.

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.

Satisfied 5 Not Satisfied 0

Reason and supporting facts:

No reason to suspect further noise, glare, sewage, etc. as residential use in residential zone.

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:

Testimony suggests no signs, screens, loading, etc. b/c residential use. Doesn't appear to have greater impact than other residential uses.

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. The conditional use permit shall be effective for 18 months pursuant to §14-474(f).

1 Eric
2nd Benjamin

4-0

Robert
Bartels

Option 2: The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit. § 14-88.

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 with the following conditions:

* Requests up to 18 months

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: 9/7/2017

Donna M. Katsifias
Board Chair - Acting
Donna M. Katsifias

Attended by Benjamin McCall
Robert Bartels
Eric Larsson
Donna Katsifias - Substitute Chair
Joseph Zamboni - Secretary pro tem