

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

R-3 Residential Zone Day Care Facility:

Conditional Use Appeal

DECISION

Date of public hearing: May 19, 2016;

Name and address of applicant: Sarah Palmer (Sasa's House, LLC)
174 Plymouth St.
Portland, ME 04103

Location of property under appeal: 174 Plymouth St. Portland, Maine

For the Record:

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

*Sarah Palmer
174 Plymouth St.*

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

*Application + Exhibits
Email to Christine Stacey from
Ashley & Hudge*

Findings of Fact and Conclusions of Law:

The applicant, Sarah Palmer, is requesting a conditional use permit for a Day Care Facility located within the R-3 zone, in order to operate a licensed day care for up to 12 children pursuant to § 14-88(d)(3).

A. Conditional Use Standards pursuant to Portland City Code §14-88(d)(3): Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens are permitted as conditional uses, provided that:

1. The facility is located in a structure in which there is (1) or more occupied residential units or in an existing accessory structure;
Satisfied Not Satisfied

Reason and supporting facts:

Applicant states her primary residence

2. The maximum capacity of the proposed Day Care Facility is twelve (12) children;

Satisfied Not Satisfied

Reason and supporting facts:

testimony - will be 12 children

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

Satisfied Not Satisfied

Reason and supporting facts:

screening is described in the application. fence is shown no one at rear property, no house on right side of property

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

Satisfied Not Satisfied

Reason and supporting facts:

Waste screened by fencing in covered bins

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 Not Satisfied

Reason and supporting facts:

Active railroad use abutting ^{Property} PATHS & Casco Bay Highschool are nearly - ~~zero~~ significant traffic & activity in the neighborhood. At least 30 residents in this particular street; children play in street. Proposal doesn't greatly exceed ^{Present activity} present activity. ^{Everyone won't drop off kids at same time. Potentially a maximum of 7 additional} ^{kids} ^(3 from applicant + worker) ^{notes conflicting evidence in volume of traffic already in street.}

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 Not Satisfied

Reason and supporting facts:

See findings above.

~~No testimony~~ Concern expressed as to noise & traffic; no testimony that it will rise to a harmful degree

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 Not Satisfied

Reason and supporting facts:

given uses of existing properties in the area - high school rail road etc. - no worse than phase. Pick up + drop off of children addressed. no new proposed buildings or facilities. everything needed to operate will be contained in the building

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. *Garvin City*

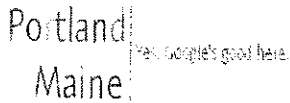
Option 2: The Board finds that while all of the standards (1 through 4) described in section A above have been satisfied, and that while all standards (1 through 3) described in section B above are satisfied, certain additional conditions must be imposed to minimize adverse effects on other property 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:

5-19-16

[Signature]
Board Chair



Christina Stacey <cstacey@portlandmaine.gov>

Fwd: A Contest to the Conditional Use Appeal for 174 Plymouth St

Ashley Eldridge <ashleye1885@gmail.com>

Wed, May 18, 2016 at 10:02 PM

To: cstacey@portlandmaine.gov

To the Portland zoning board of appeals:

In response to the conditional use appeal for 174 Plymouth St, owner Sarah Palmer, to operate a licensed day care for up to twelve children at her existing single family home.

Written by Ashley Eldridge and Thomas Beebe. Residents and owners of 168 Plymouth St which abuts 174 Plymouth St.

We wish to contest the conditional use appeal for the following reasons;

Standard 1.)

The Volume and type of vehicle traffic to be generated, hours of operation, expansive 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.

1. As 174 Plymouth St is at the end of this dead-end street (see picture "PLAY AREA AS VIEWED FROM SIDE OF HOUSE") traffic will increase greatly on Plymouth St by up to 48 cars per day as this is a dead end street and cars will have to pass by all residence of plymouth St twice to drop off and pick up the children. This volume of traffic is substantially increased from the approximate 10 cars (back and forth) that pass by our residence in a typical day.

*Possible 12 cars in Am for drop off, driving by 2x (due to dead end street)=24 cars.
Same in PM = 48 cars driving by our residence per day.

2. If 12 cars drop off or pick up 12 children there is insufficient parking at 174 Plymouth St to accommodate all vehicles, which means overflow will be parked in front of 168 Plymouth St (see picture "174 PLYMOUTH FROM STREET") or other surrounding residences. Again causing increased traffic and noise in front of residences.

3. In the Winter when streets are more narrow due to snow banks, turning around at the dead end street or parking on the street will be harder, thus causing people to use other residences driveways to turn around in.

4. Increased traffic and parking on the street will make it harder for emergency, snow and trash removal vehicles to pass through if needed.

Standard 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.

1. There will most definitely be an increase in noise pollution throughout the neighborhood while up to 12 children will be playing outside. The proposed picket fence will not screen or buffer the noise or visual impact.

Thank you for taking the time to review our concerns and we wish the applicant, Sarah, no personal ill-will and value her as a neighbor, friend and positive member of the Plymouth St community.