

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Kent Avery
Joe Zamboni
Donna Katsiadou
ERIC LEVSSON
Brandon Mayer

R3 – Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: January 19, 2017
Name and address of applicant: Dana Cunningham
140 Pennell Ave.
Portland, Maine 04103
Location of subject property : 140 Pennell Ave.
CBL 347 A008001; CBL 347 A009001;
CBL 347 A010001; CBL 347 A011001;
CBL 347 A012001; CBL 347 A013001;
CBL 347 A014001; CBL 347 A015001;
CBL 347 A016001

For the Record:

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

Dana Cunningham
Pam Fontaine
140 Pennell Ave.

no public comment

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

Application w/ Exhibits

Findings of Fact and Conclusions of Law:

The applicants are seeking a conditional use permit pursuant to § 14-88(a)(2) of the City of Portland Code of Ordinances to add a dwelling unit to an existing single-family residence. The Board has authority to consider a conditional use permit application pursuant to § 14-474(a).

An additional dwelling unit is permitted in a detached, single-family dwelling for the benefit of homeowners or tenants if it meets all of the requirements of § 14-88(a)(2)(a) – (j) (excepting the omitted (e) and (f)), as well as the requirements of § 14-474(c).

Findings:

1. The alteration is of a detached single-family dwelling, will accommodate only one additional dwelling unit, and the dwelling unit will be for the benefit of the homeowners or tenants. § 14-88(a)(2).

Satisfied Not Satisfied

Reason and supporting facts:

Application show detached single family dwelling w/ one additional unit. owner occupied principal unit

2. The accessory unit shall be no more than 30% of the gross floor area of the 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, but may include attic space if such space shall be included as habitable space within either dwelling unit. § 14-88(a)(2)(a).

Satisfied Not Satisfied

Reason and supporting facts:

*1,120 sqft feet unit - 26.7%
Floor area available, > than 400sq feet*

3. There will be no open outside stairways or fire escapes above the ground floor. § 14-88(a)(2)(b).

Satisfied Not Satisfied

Reason and supporting facts:

enclosed staircase - no exterior/open staircase

4. 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. § 14-88(a)(2)(c).

Satisfied Not Satisfied

Reason and supporting facts:

garage w/ unit above it - compatible with single family style.

5. The lot size is a minimum of six thousand five hundred (6,500) square feet. § 14-88(a)(2)(d).

Satisfied Not Satisfied

Reason and supporting facts:

40,500 sq feet lot size

6. No dwelling unit will be reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic. § 14-88(a)(2)(g).

Satisfied Not Satisfied

Reason and supporting facts:

Main dwelling unit will be
3,072 sq. feet

7. Parking shall be provided as required by Chapter 14, Division 20. § 14-88(a)(2)(h).

Division 20 provides that, for accessory units pursuant to § 14-88, one additional parking spaces for each such unit shall be required. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one space for each dwelling unit. § 14-332(a)(2).

Satisfied Not Satisfied

Reason and supporting facts:

3 spaces in garage, 3 spaces in
driveway = 6 total parking
spaces

8. The project shall be subject to site plan review and approval, including the following additional standards: i) Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building; and ii) 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. § 14-88(a)(2)(i).

Satisfied Not Satisfied

To be made a condition of the permit

Reason and supporting facts:

roof pitch compatible w/ surrounding
properties. @ the dead end street

9. Either the accessory unit or principal unit will be occupied by the lot owner, except for bona fide temporary absences. § 14-88(a)(2)(j).

Satisfied Not Satisfied

Reason and supporting facts:

Principal unit will be
inhabited by the owner

10. 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. This standard is satisfied if all of the following are met. § 14-474(c).

- a. 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:

*residential use in residential zone,
not out of scale with the
neighborhood.*

- b. 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:

*residential use in residential
neighborhood, no public testimony
otherwise*

- c. 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:

*Residential use in residential
zone. No public testimony
otherwise.*

Zamboni, Hanson

Conclusions:

Option 1: The Board finds that all of the standards described above have been satisfied, and therefore GRANTS the conditional use permit.

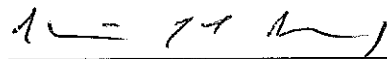
Option 2: Pursuant to § 14-474(d), the Board has the authority to impose conditions on conditional use permits. The Board finds that all of the standards described above have been satisfied, however, certain reasonable conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

The project must obtain site plan review and approval, including the following additional standards: i) Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building; and ii) 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.

Option 3: The Board finds that all of the standards described above have not been satisfied, and therefore DENIES the application.

Dated:

1-19-2017


Board Chair