

*Diana Katsaficas  
Chris Gaven  
Kent Avery  
Eric Harrison*

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

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R-2 Residential Zone:

**Conditional Use Appeal**

**DECISION**

Date of public hearing: March 3, 2016;

Name and address of applicant: Michele Clayton  
58 Deering Run Drive  
Portland, ME 04103

Location of property under appeal: 58 Deering Run Drive, Portland, Maine 04103

For the Record:

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

*Michele Clayton  
58 Deering Run Dr.*

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

*Application + exhibits*

Findings of Fact and Conclusions of Law:

The applicant is seeking a Conditional Use in the R-2 Residential Zone under § 14-78(c)(3) to operate a licensed child care center for up to 12 children at an existing single-family residence.

A. Conditional Use Standards pursuant to Portland City Code §14-78(c)(3)

Day care facilities not permitted as home occupation under section 14-410 are permitted as conditional uses subject to the following conditions:

1. The facility shall be located in a structure in which there is one (1) or more occupied residential units;

Satisfied  Not Satisfied

Reason and supporting facts:

*Located in applicant's home + applicant lives there*

2. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto.

Satisfied  Not Satisfied

Reason and supporting facts:

*applicant will have up to 12 - wants 18 and the ability to go up to 12.*

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:

Privacy fence surrounds play area,  
as well as shrubs + trees.

No public comment

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:

Solid waste will be stored in garage in  
covered trash can

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:

No expanse of pavement or parking spaces  
no significant change in vehicle  
traffic. no public testimony.

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:

*NO Public Comment on these conditions  
nothing about application changes  
existing conditions.*

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:

*most factors don't apply to this type of  
use  
application only asks for minor increase  
in existing use.*

Conclusion: (check one)

*Lawson, Katsifias*

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.

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:

*3-3-16*

*A. Lawson*

Board Chair