

CITY OF PORTLAND, MAINE  
ZONING BOARD OF APPEALS

R-2 Residential Zone:

Conditional Use Appeal

DECISION

Date of public hearing: September 3, 2015;

Name and address of applicant: Joyce & Vincent DiFillipo  
163 Christy Rd.  
Portland, ME 04103

Location of property under appeal: 159-165 Christy Road, Portland, ME 04103

For the Record:

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

*Joyce and Vincent DiFillipo JR.*

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

*Application*

Findings of Fact and Conclusions of Law:

The applicants, Joyce & Vincent DiFillipo, are seeking a Conditional Use in the R-2 Residential Zone under § 14-78(a)(2) to enlarge a pre-existing accessory dwelling unit, approved and built in 1992. Applicants seek to build a two-story addition, with approximate dimensions of twenty feet by twenty-one feet (420 square feet per floor).

The project is subject to article V site plan review and approval that i) any additions or exterior alterations such as façade 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.

A. Conditional Use Standards pursuant to Portland City Code §14-78(a)(2)

Alteration or construction of a single-family detached dwelling to accommodate an accessory dwelling unit within the building is permitted if:

1. The accessory dwelling unit is clearly subordinate to the principal dwelling;

Satisfied  Not Satisfied

Reason and supporting facts:

*+ testimony - accessory dwelling is clearly smaller to larger home*

2. The accessory dwelling unit is clearly for the homeowners or tenants;

Satisfied  Not Satisfied

Reason and supporting facts:

*Testimony - family inhabited by Chesley Road property - apartment by parents.*

3. The accessory unit has a minimum floor area of four hundred (400) square feet that represents no more than thirty (30) percent of the gross floor area of the principal dwelling unit.<sup>1</sup>

Satisfied  Not Satisfied

Reason and supporting facts:

2970 of gross square feet area of principal dwelling unit will be the apartment.

4. The lot area is eight thousand (8,000) square feet for single-family dwellings in existence as of May 1, 1984 or the lot area is ten thousand (10,000) square feet for single-family dwellings constructed after May 1, 1984;

Satisfied  Not Satisfied

Reason and supporting facts:

lot area is 14,782 sq. feet

<sup>1</sup> "Gross floor area" excludes any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level and may include the attic if such space is habitable.

5. There are no open, outside stairways or fire escapes above the ground floor.

Satisfied  Not Satisfied

Reason and supporting facts:

no fire escapes on outside entrance stairways

6. Any additions or exterior alterations such as façade materials, building form and roof pitch are designed to be compatible with the architectural style of the building, and its appearance as a single-family dwelling.

Satisfied  Not Satisfied

Reason and supporting facts:

hoping that materials will match current style

7. The accessory or principal dwelling unit is occupied by the owner of the lot, except for bona fide absences of a temporary nature;

Satisfied  Not Satisfied

Reason and supporting facts:

Owner intends to occupy one unit + future owner the other unit.

8. A minimum of one (1) additional parking space is provided for the additional unit, or there exists a minimum of three (3) parking spaces for the present unit.

Satisfied  Not Satisfied

Reason and supporting facts:

garage + room in driveway accommodate more than 3 cars

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:

*multigenerational house since 1992.  
Activity will continue.*

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:

*Residential use. Since 1992 accessory unit has been in use. No public comment.*

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:

*Residential use not being changed; presently used as accessory unit. no public testimony*

Conclusion: (check one)

*Grant, Getz*

Option 1: The Board finds that all of the standards (1 through 8) 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. *per 1-year period.*

Option 2: The Board finds that while all of the standards (1 through 8) 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 8) 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: *9/3/15*

*[Signature]*

Board Chair

*ACTING CHAIR  
+ SECRETARY*