

McCall
Bartzel
KATSIAFICAS
Larsson
Avery

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

R-2 Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: March 1, 2018

Name and address of Appellant: Dianne and Matt Watters
120 Douglass Street
Portland, Maine 04102

Location of property under appeal: 15 Morningstar Lane
CBL 385A A032001

For the Record:

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

Dianne + Matt Watters
120 Douglass St.
Portland,

FREDERICK WRIT

Ruth
Betzinger
Summit St
Portland
Concerned
about
rental use
in single family
home.

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

Application + Exhibits
Email from Ron Dorker

Findings of Fact and Conclusions of Law:

The applicant is seeking a conditional use permit to add an accessory dwelling unit within a partially completed single-family home. An accessory dwelling unit is permitted if it meets all of the criteria of § 14-78(a)(2) and § 14-474(c).

Findings:

1. The alteration is of a single-family, detached dwelling; the accessory dwelling unit will be within the building and clearly subordinate to the principal dwelling; and the accessory unit will be for the benefit of the homeowners or tenants. § 14-78(a)(2).

Satisfied Not Satisfied

Reason and supporting facts:

*single family detached dwelling.
A.D.U. in lower level. clearly
subordinate to principal dwelling unit.
It will be rented to provide
additional income.*

2. The accessory unit is no more than thirty (30) percent of the gross floor area of the principal building and has a minimum floor area of four hundred (400) square feet. 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 attic space if such space shall be included as habitable space within either dwelling unit. § 14-78(a)(2)(a).

Satisfied Not Satisfied

Reason and supporting facts:

*3,276 sq feet for principal
building. 835 ft² for A.D.U.
2570 of gross floor area*

3. The lot area is eight thousand (8,000) square feet for single-family dwellings in existence as of May 1, 1984, or is ten thousand (10,000) square feet for single-family dwellings constructed after May 1, 1984. § 14-78(a)(2)(b).

Satisfied Not Satisfied

Reason and supporting facts:

13,341 ~~ft~~² lot size.

4. There are no open, outside stairways or fire escapes above the ground floor. § 14-78(a)(2)(c).

Satisfied Not Satisfied

Reason and supporting facts:

No outside staircases above ground floor - staircase leads to ground floor.

5. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors are compatible with the architectural style of the building and preserve the single-family appearance of the building. § 14-78(a)(2)(d).

Satisfied Not Satisfied

Reason and supporting facts:

No exterior modifications proposed. adequate screening of the ADU to disguise nature of the use

6. The project is subject to Chapter 14, Article V for site plan review and approval and the following additional standards:
- a) 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 preserve the single-family appearance of the building.
 - b) 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.

§ 14-78(2)(e).

Satisfied Not Satisfied

Reason and supporting facts:

Site plan shows screening, trees and landscaping. Driveway shows as being screened. Administrative site plan review will be done

7. Either the accessory unit or the principal dwelling will be occupied by the owner of the lot on which the principal building is located, except for bona fide temporary absences. § 14-78(2)(f).

Satisfied Not Satisfied

Reason and supporting facts:

Applicants state they will live in principal dwelling unit & rent out ADA

8. For accessory units pursuant to § 14-78, one (1) additional parking space must be provided for each unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit. §§ 14-78(2)(g), 14-332(a)(2).

Satisfied Not Satisfied

Reason and supporting facts:

Garage on property
2 cars can park in driveway
Existing parking spaces exceed
1 space per dwelling unit.

9. 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:

Addition of 1 residential unit
in residential zone
sufficient parking on site
~~it~~ won't generate extra
traffic.

- 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 zone. No additional external construction. No evidence to suggest extra noise, glare etc. by ~~the~~ ~~ADU~~ adding proposed unit.

- 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:

House has adequate screening.
ADU entrance is screened.
residential use won't significantly increase waste generation

Conclusions:

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

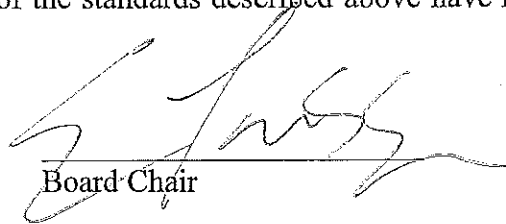
Katsifras, Bartels

___ 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:

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

Dated:

3-1-18



Board Chair