

Chip Gaven
Kent Avery
William Getz
Sara Martin
Donna KATSIAFICAS
ERIC Larsson

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

R-2 Residential Zone Accessory Structure

Conditional Use Appeal

DECISION

Date of public hearing: May 15, 2014

Name and address of applicant: Frederick & Colleen Writt
93 Mast Road
Falmouth, ME 04105

Location of property under appeal: Lot #2 Morningstar Lane

Kent Avery disclosed we had no relationship w/ Steve Rowe. Chip Gaven made same disclosure. No one objected to their participation. Sara Martin disclosed her law firm represented

For the Record:

Ren Dwyer + she lives on water Drive + is abutter asked if anyone objected - no one did.

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

Frederick Writt, (Colleen Writt), 15 Morning Star Lane

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

all exhibits in packet.

Findings of Fact and Conclusions of Law:

Applicants are proposing to add an accessory dwelling unit to a new single family home (the plan is to renovate a timber framed barn which currently exists on the property). The accessory dwelling will be used as an in-law unit. The gross floor area of the principal building will be 2280 sq. ft. The proposed accessory unit would be 530.6 sq. ft. The lot area is 13,341 sq. ft.

This applicants appeared before the ZBA in August, 2013 with a similar Conditional Use Permit request for this property, which was granted. Since that time the applicants' plans have been revised, so they were advised to re-apply for ZBA approval of the final plans.

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

1. The accessory dwelling unit is within the building and clearly subordinate to the principal dwelling and is for the benefit of homeowners or tenants.

Satisfied Not Satisfied

Reason: *detailed plans showing unit within the building along with testimony from applicant*

2. The accessory unit shall be no more than thirty (30) percent of the gross floor area of 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; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit.

Satisfied Not Satisfied

Reason: *written & verbal testimony it is less than 30% (23.2%) + ~~minimum~~ proposed ADU 530.6 sq. ft.*

3. Lot area shall be eight thousand (8,000) square feet for single-family dwellings in existence as of May 1, 1984, and lot area shall be ten thousand (10,000) square feet for single-family dwellings constructed after May 1, 1984.

Satisfied Not Satisfied

Reason: *per testimony*

4. There shall be no open outside stairways or fire escapes above the ground floor.

Satisfied Not Satisfied

Reason: applicant testimony - no outside stairway

5. 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.

Satisfied Not Satisfied

Reason: Everything being built at same time - new construction

6. 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.

Satisfied Not Satisfied

Reason: Testimony - City arborist involved with landscape design. Well screened from neighboring lot - white cedar.

7. Either the accessory unit or principal unit shall be occupied by the lot owner, except for bona fide temporary absences.

Satisfied 6 Not Satisfied

Reason: *Testimony + Submittal A.D.U. occupied by lot owner*

8. Parking shall be provided as required by division 20 of this article: One (1) additional off-street parking space for each new unit (14-332(a)(2)). 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.

Satisfied 6 Not Satisfied

Reason: *Plans show parking for 2 cars - one per unit - + garage*

B. Conditional Use Standards pursuant to Portland City Code §14-474(c)(2):

1. There are ^{no} unique or distinctive characteristics or effects associated with the proposed conditional use.

Yes No

Reason and supporting facts:

- unit within house well planned

2. There will be ^{no} an adverse impact upon the health, safety, or welfare of the public or the surrounding area.

Yes 6 No

Reason and supporting facts:

*no one is objecting this time -
consistent w/ residential use*

3. Such impact ^{does not} differs substantially from the impact which would normally occur from such a use in that zone.

Yes 6 No

Reason and supporting facts:

*Residential use in residential
zone*

Conclusion: (check one)

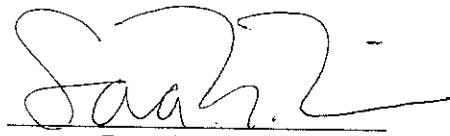
Option 1: The Board finds that all of the standards (1 through 8) described in section A above have been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application. *for a two-year period from date of this decision.*

Option 2: The Board finds that while all of the standards (1 through 8) described in section A above have been satisfied, and not all of the conditions (1 through 3) described in section B above are present, 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: 6-0

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 all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

Please note that, pursuant to Portland City Code 14-78(a)(2)(e), if approved the project shall be subject to article V (site plan) of this chapter for site plan review and approval.

Dated: 5-15-14


Board Chair