

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

*McCall
Katsafiras
Zamboni
Bentels
Avery*

R5 – Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: April 20, 2017
Name and address of applicant: Nick Nadeau
22 Hawthorne Street, Unit 2
Portland, Maine 04103
Location of subject property : 22 Hawthorne Street
CBL 427 D012001
CBL 427 D013001

For the Record:

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

*Nick Nadeau
22 Hawthorne St.*

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

Application with Exhibits

Findings of Fact and Conclusions of Law:

The applicant is seeking a conditional use permit pursuant to § 14-118(a)(5) of the City of Portland Code of Ordinances to convert an existing two-family residential use to a three-family residential use by converting a garage constructed in 2006 into an affordable housing unit. The Board has authority to consider a conditional use permit application pursuant to § 14-474(a).

The use of an existing space as of September 3, 2008 to accommodate an additional dwelling unit is permitted if it meets all of the requirements of § 14-118(a)(5)(a) – (h).

Findings:

1. The space to be used to accommodate the additional dwelling unit has been in existence as of September 3, 2008. § 14-118(a)(5).

Satisfied Not Satisfied

Reason and supporting facts:

built in 2006 per application

2. With the additional unit, there will be no more than four dwelling units on the lot and no more than two additional dwelling units on the lot above what would otherwise be permitted. § 14-118(a)(5)(a).

Satisfied Not Satisfied

Reason and supporting facts:

*2 units presently on lot - will
add 1 unit = 3*

3. The unit created under this section will not be sold as condominium unit or otherwise separated from the ownership of at least one of the pre-existing units on the site. § 14-118(a)(5)(b).

Satisfied Not Satisfied

To be made a condition of the permit

Reason and supporting facts:

*no Condo Conversion will take place
per application*

4. The unit created under this section will be affordable to households earning up to 80% of AMI and subject to income verification as further outlined in implementing regulations. § 14-118(a)(5)(c).

Satisfied Not Satisfied

To be made a condition of the permit

Reason and supporting facts:

*application indicates 2 bedroom, 1
bath unit < 80% AMI*

5. The additional unit will have a minimum floor area of four hundred (400) square feet and will not involve removing more than ten percent of the gross floor area of an existing dwelling unit into a new dwelling unit. 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 and may include the attic if such space is habitable. § 14-118(a)(5)(d).

Satisfied Not Satisfied

Reason and supporting facts:

700 Sq. feet for the new unit -
Current garage is not livable
space and not being removed
from a current dwelling unit

6. Modifications to the existing structure will be minimal, and will be limited to new doors, windows and other openings. § 14-118(a)(5)(e).

Satisfied Not Satisfied

Reason and supporting facts:

only windows and exterior doors
will be added.

7. Parking shall be provided as required by Chapter 14, Division 20. § 14-118(a)(5)(f).

Division 20 provides that, for alterations or changes of use in existing structures, which create new or additional dwelling units in such structures . . . one (1) additional parking spaces for each such 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. § 14-332(a)(2).

Satisfied Not Satisfied

Reason and supporting facts:

Testimony - 6 vehicle spaces on property - enough space for this unit.

8. There shall be no open, outside stairways or fire escapes above the ground floor. § 14-118(a)(5)(g).

Satisfied Not Satisfied

Reason and supporting facts:

written materials state no fire escapes above ground floor.

9. The project shall be subject to Chapter 14, Article V site plan review and approval, with the following additional standards: i) Any additions or exterior alterations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single family appearance of the building; and ii) the scale and surface area of parking, driveways and paved areas shall be arranged and landscaped properly to screen vehicles from adjacent properties and streets. § 14-118(a)(5)(h).

Satisfied Not Satisfied

To be made a condition of the permit

Reason and supporting facts:

Exterior will match the look of current structure. Some shrubs exist. Site plan will review landscaping.

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:

Additional residential use; in residential zone. No additional expanse of pavement or impact on neighbors. No one opposing.

- 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, not much impact.

- 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 - residential zone - only adds 1 unit.

Zamboni, Katsopoulos

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 unit created may not be sold as condominium unit or otherwise separated from the ownership of at least one of the pre-existing units on the site.

The unit created must be maintained as affordable to households earning up to 80% of AMI and subject to income verification as further outlined in implementing regulations.

The project must obtain site plan approval, pursuant to Chapter 14, Article V, and must meet the following additional standards: i) Any additions or exterior alterations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single family appearance of the building; and ii) the scale and surface area of parking, driveways and paved areas shall be arranged and landscaped properly to 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: 4-20-17


Board Chair