

McCall
harsson
Avery
Katrifaces
Zamboni

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

R5 – Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: July 13, 2017
Name and address of applicant: BK Properties, LLC
P.O. Box 6149
Falmouth, Maine 04109
Location of subject property : 613 Washington Ave
CBL 428 L022001

For the Record:

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

Shamayel Karger
Po Box 6149
Falmouth, Me.
04109

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

Application + exhibits

Findings of Fact and Conclusions of Law:

The applicants are seeking a conditional use permit pursuant to § 14-118(a)(5) of the City of Portland Code of Ordinances to gain after-the-fact approval to convert a two-family residential to a three-family residential with conversion of existing attic space 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:

Building was built in 1900

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:

*3 unit building will result;
Presently there are 2 units*

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:

Condition of the Permit

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

Reason and supporting facts:

*applicant indicates she will
comply with this income
limitation*

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:

The additional unit will have gross floor area of 1131 sq. feet. It won't take any space away from existing 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:

No modifications needed. Unit already exists. Any work will take place inside.

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:

*6 spaces available on property -
2 per 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:

Stairways exist inside. No external stairways.

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

Reason and supporting facts:

*residential property - looks like
single family although a multi-unit.
ZBA has no jurisdiction over site plan*

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:

*no pavement changes
residential use in residential zone
multi unit ~~units~~ buildings on
each side
no public comment
plenty of parking exists on site.*

- 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. - no conditions
will likely rise to be harmful.

- 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
landscaping won't change
no public comment
trash/waste materials
won't be greater.

Conclusions:

McCall, Larson

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:

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

Dated:

7-13-17

[Signature]

Board Chair