

McCall  
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# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

### R-5 Residential Zone Conditional Use Appeal Decision

Date of public hearing: March 1, 2018

Name and address of Appellant: Erin Campbell  
7 Kensington Street  
Portland, Maine 04103

Location of property under appeal: 7 Kensington Street  
CBL 431 H001001

### FOR THE RECORD

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

ERIN Campbell  
7 Kensington St.  
Portland

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

Application w/ Exhibits, Email from  
Michelle Welton (objecting to application)  
27 Windsor Terrace

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

This is a conditional application for a home occupation, engaging in providing microblading services.

Home occupations are permitted uses in the R-5 Zone, subject to the requirements of § 14-410, which lists types of home occupations that are specifically allowed. § 14-117(b)(3). Where a home occupation is not listed in § 14-410, it may be allowed as a conditional use where it is similar to, and no more objectionable than, listed home occupations; meets the additional criteria of § 14-410(a); and also meets the criteria of § 14-474.

1. The proposed home occupation is not specifically permitted by § 14-410, but it is similar to, and no more objectionable than the listed home occupations. A list of permitted home occupations is attached.

Satisfied  Not Satisfied

Reason and Supporting Facts:

*Scale and nature of service provided is similar to 14-410(b) using hand tools. Like other occupations patrons coming to visit ~~don't~~ use is no more objectionable or have an effect on neighborhood than a hair dresser.*

2. The home occupation does not occupy more than 500 sq. ft. of floor area, or more than 25% of the total floor area of the dwelling unit, whichever is less. § 14-410(a)(1). The storage of materials related to the home occupation shall count as a part of the occupancy limitations. § 14-410(a)(3).

Satisfied  Not Satisfied

Reason and Supporting Facts:

*115.5 sq feet out of 960 sq feet will be used for business (9.9%)  
Use meets both noted measurement standards.  
materials stored within space*

3. There will be no outside storage of goods or materials, nor shall there be exterior displays, or the display of goods visible from the outside. § 14-410(a)(2).

Satisfied  Not Satisfied

Reason and Supporting Facts:

everything stored internally.  
No display of goods outside

4. The storage of materials related to the home occupation shall not constitute a dominant part of the occupancy provided, and there shall be no storage of such materials or products in garages or other accessory structures. § 14-410(a)(3).

Satisfied  Not Satisfied

Reason and Supporting Facts:

small closet in one bedroom will  
be used for storage.  
No storage in garage or  
accessory structures

5. Exterior signs will be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building. § 14-410(a)(4).

Satisfied  Not Satisfied

Reason and Supporting Facts:

may be a small sign on front  
door.  
Signage will ~~be~~ be there  
when clients visit

6. Any exterior alterations to the residence will be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs. § 14-410(a)(5).

Satisfied  Not Satisfied

Reason and Supporting Facts:

No exterior alterations are proposed.

7. Off-street parking is required as provided in Chapter 14, Art. III, Division 20. § 14-410(a)(6). Any need for parking generated by the conduct of a home occupation shall be met off the street and other than in a required front yard. § 14-332.2(a).

Satisfied  Not Satisfied

Reason and Supporting Facts:

4 parking spaces available off street, 2 are assigned to units on site, 2 are available for customers, client is needed at a time as only 1 will be there at any given time.

8. The home occupation will not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects. § 14-410(a)(7).

Satisfied  Not Satisfied

Reason and Supporting Facts:

No noise other than minor "mower" noise, no other objectionable effects would occur regarding odor, heat, glare etc.

9. There will be no more than one nonresident employed in the home occupation. § 14-410(a)(8).

Satisfied  Not Satisfied

Reason and Supporting Facts:

*no nonresident will be employed per testimony of applicant.*

10. No traffic will be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. § 14-410(a)(9).

Satisfied  Not Satisfied

Reason and Supporting Facts:

*1-2 clients per day for 4 days per week. No more traffic generated than normal residential traffic.*

11. No motor vehicle exceeding a gross vehicle weight of 6,000 pounds will be stored on the property in connection with the home occupation. § 14-410(a)(10).

Satisfied  Not Satisfied

Reason and Supporting Facts:

*no additional vehicle will be stored on property*

12. 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:

- 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 greater impact than occurs in residential neighborhood. 2 trips a day, 4 days a week. Hours of operation are during day when people are away. No*

- 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:

*Waste disposed through mail several times a year. no glare, emissions, odors etc. Created by the use*

- 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:

*Everything is confined inside to residential unit. No loading/deliveries. Trash disposed of by mail. No storage outside. Storage limited to 2 ft<sup>2</sup>. Impact no different than what is already in zone.*

CONCLUSIONS: *McCall, Avery*

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:

*3-1-18*

*[Signature]*  
Board Chair

## List of permitted home occupations – Sec 14-410(b)

1. Accountants and auditors
2. Answering services (telephone)
3. Architects
4. Artists and sculptors
5. Authors and composers
6. Computer programming
7. Custodial services
8. Custom furniture repair and upholstery
9. Dentists, doctors, therapists, and health care practitioners
10. Direct mail services
11. Dressmakers, seamstresses and tailors
12. Engineers
13. Family planning services
14. Hairdressers (limited to no more than two (2) hair dryers)
15. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics
16. Interior decorators
17. Lawyers, justices of the peace and notary publics
18. Licensed family day care, home or babysitting services
19. Musicians or music teachers, including group instruction not to exceed six (6) students at any time but not including performances or band rehearsals, which shall meet the following requirements in addition to those set forth in subsection (a) of this section: a. Electronic amplification is prohibited; b. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. c. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners or any combination of these or similar noise attenuation measures; d. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.
20. Office facility of a minister, rabbi, or priest
21. Photographic studios
22. Professional counseling and consulting services
23. Professional research services
24. Sales persons provided that no retail or wholesale transactions are made on the premises
25. Small appliance repair
26. Snow plowing provided that only one (1) snow plow vehicle is stored on or generated from the site
27. Special tutoring or instruction (not to exceed three (3) pupils at any given time)
28. Stenographic and other clerical services