

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

*McCall
Larson
Avery
Kawafice
Yamkum*

R-5 Residential Zone
Disability Variance Appeal

DECISION

Date of public hearing: November 2, 2017

Name and address of Appellant: Ruth M. Egle & Karen Egle-Gaber
c/o Alpha One
127 Main Street
South Portland, Maine 04106

Location of property under appeal: 30 Woodlawn Avenue
CBL 435 A045001

For the Record:

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

*Jill Johanning
Alpha One*

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

Application & Exhibits

Findings of Fact and Conclusions of Law:

The applicant is seeking a disability variance from the requirements of City of Portland Code of Ordinances § 14-120(a)(4)(c)(i) which requires a side yard setback of eight feet. Applicant seeks to reduce the side setback to three feet to accommodate a temporary handicapped-accessible ramp.

The Board of Appeals has jurisdiction to hear and grant or deny applications for disability variances pursuant to § 14-471.

Findings:

Section 14-473(c)(2) provides that, a disability variance is available when all of the following conditions are met:

1. The variance requested is for the purpose of making the dwelling accessible to a person with a disability. § 14-473(c)(2). A disability is defined as,
 - A. A physical or mental impairment that:
 - (1) Substantially limits one or more of a person's major life activities;
 - (2) Significantly impairs physical or mental health; or
 - (3) Requires special education, vocational rehabilitation or related services;
 - B. Without regard to severity unless otherwise indicated: absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; intellectual disability; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury;
 - C. With respect to an individual, having a record of any of the conditions in paragraph A or B; or
 - D. With respect to an individual, being regarded as having or likely to develop any of the conditions in paragraph A or B.

Id.; 5 M.R.S. §§ 4553(7-A), 4553-A(1).

Satisfied Not Satisfied

Medical documentation from a physician has been provided to document Applicant's disability.

2. The disabled person resides in or regularly uses the dwelling;

Satisfied Not Satisfied

Application indicates disabled person
lives in dwelling

3. The variance is for the "installation of equipment or the construction of structures necessary for access to or egress from the dwelling."

Satisfied Not Satisfied

Variance is for construction of
wheel chair accessible ramp.
Only current access is stairs.

McDall, Katz

Decision:

Option 1: The Board finds that the applicant has satisfactorily met the standards for a disability variance and GRANTS the variance without limitation.

Option 2: Pursuant to Sec. 14-473(c)(2), the Board may impose conditions on a disability variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The Board finds that the applicant has satisfactorily met the standards for a disability variance and GRANTS the variance with the following conditions:

Option 3: The Board finds that the applicant has NOT satisfactorily met the standards for a disability variance and DENIES the variance.

Dated:

11-02-17

[Signature]
Board Chair